

SUBTITLE 40.4

CRITICAL AREAS AND SHORELINES

40.410 CRITICAL AQUIFER RECHARGE AREAS (CARAs)

40.410.010 INTRODUCTION

- A. Purpose. This chapter is intended to protect public health, safety, and welfare by preventing degradation, and where possible, enhance the quality of groundwater which will be, or might likely be, used in the future for drinking water or business purposes. This will be accomplished by limiting potential contaminants within designated CARAs. The requirements of this chapter are intended to fulfill obligations of state law under the Growth Management Act, RCW 36.70A; the Public Water Systems Penalties and Compliance RCW 70-119A; the Washington State Wellhead Protection Program and the Public Water Supplies, WAC 246-290; the Dangerous Waste Regulations, WAC 173-303; and the Water Quality Standards for Groundwater of the State of Washington, WAC 173-200.
- B. Classification of critical aquifer recharge areas.
1. Category I is the highest priority critical aquifer recharge area. Category I is the one-year time of travel for Group A water wells, shown on the county's Critical Aquifer Recharge Areas map.
 2. Category II is the primary critical aquifer recharge area. This area consists of the unconsolidated sedimentary aquifer and the Troutdale gravel aquifer, both shown on the county's Critical Aquifer Recharge Areas map.
 3. Parcels that are partly within Category I and Category II shall be subject to the Category I provisions in this chapter.
 4. Parcels that are partly inside Category II, but outside Category I, shall be subject to the Category II provisions in this chapter.
- C. Map. The map entitled Critical Aquifer Recharge Areas Map for Clark County, Washington as signed by the board is adopted and is on file with the County Auditor.

40.410.020 STANDARDS

- A. Exempt activities in Categories I and II.
- The following activities do not require a CARA permit:
1. Existing activities that currently and legally existed on July 31, 1997;
 2. All residential uses other than those having activities covered by Section 40.410.020(B);
 3. Other uses not listed in Sections 40.410.020(B) or (C); and
 4. Activities already permitted and regulated by the state and the Clark County Health Department to incorporate best management practices.
 5. Other Exemptions. The following Underground Storage Tank (UST) systems, including any piping connected thereto, are exempt from the requirements of this chapter:
 - a. Any UST system holding hazardous wastes subject to Subtitle C of the Federal Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;
 - b. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;
 - c. Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;
 - d. Any UST system whose capacity is one-hundred ten (110) gallons or less;
 - e. Any UST system that contains a de minimis concentration of regulated substances;
 - f. Any emergency spill or overflow containment UST system that is expeditiously emptied after use;
 - g. Farm or residential UST systems of one-thousand one-hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes (i.e., not for resale);

- h. UST systems used for storing heating oil for consumptive use on the premises where stored; except that such systems which store in excess of one-thousand one-hundred (1,100) gallons are subject to the release reporting requirements of WAC 173-360-372;
 - i. Septic tanks;
 - j. Any pipeline facility (including gathering lines) regulated under:
 - (1) The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.), or
 - (2) The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or
 - (3) Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of the law referred to in subsection (j)(1) or (2) of this definition;
 - k. Surface impoundments, pits, ponds, or lagoons;
 - l. Stormwater or wastewater collection systems;
 - m. Flow-through process tanks;
 - n. Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; or
 - o. Storage tanks situated in an underground area (such as a basement, cellar, vault, mineworking drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.
- B. Permitted activities in Categories I and II. The following activities require a CARA permit in both Categories I and II:
- 1. Above- and below-ground storage tanks (tanks and pipes used to contain an accumulation of regulated substances (see Section 40.100.070);
 - 2. Facilities that conduct biological research;
 - 3. Boat repair shops;
 - 4. Chemical research facilities;
 - 5. Dry cleaners;
 - 6. Gasoline service stations;
 - 7. Pipelines;
 - 8. Printing and publishing shops (that use printing liquids);
 - 9. Below-ground transformers and capacitors;
 - 10. Sawmills (producing over ten thousand (10,000) board feet per day);
 - 11. Solid waste handling and processing;
 - 12. Vehicle repair, recycling, and recyclable materials--automotive;
 - 13. Funeral services;
 - 14. Furniture stripping;
 - 15. Motor vehicle service garages (both private and government);
 - 16. Photographic processing;
 - 17. Chemical manufactures and reprocessing;
 - 18. Creosote and asphalt manufacture and treatment;
 - 19. Electroplating activities;
 - 20. Petroleum and petroleum products refining, including reprocessing;
 - 21. Wood products preserving;
 - 22. Golf course;
 - 23. Regulated waste treatment, storage, disposal facilities that handle hazardous material;
 - 24. Medium quantity generators (dangerous, acutely hazardous, and toxic extremely hazardous waste); and
 - 25. Large quantity generators (dangerous, acutely hazardous, and toxic extremely hazardous waste).
- C. Prohibited activities in Category I. The following activities are considered high-impact uses due to the probability and/or potential magnitude of their adverse effects on groundwater and shall be prohibited within Category I:
- 1. Landfills;
 - 2. Class V injection wells;
 - 3. Agricultural drainage wells,
 - 4. Untreated sewage waste disposal wells,
 - 5. Cesspools,
 - 6. Industrial process water and disposal wells, and

7. Radioactive waste disposal;
8. Radioactive disposal sites; and
9. Surface mining operations.

40.410.030 ADMINISTRATION

A. CARA Permit Requirements

1. To receive a CARA permit, the applicant must demonstrate, through a Level 1 site evaluation report, how they will integrate necessary and appropriate best management practices to prevent degradation of groundwater. The applicant must also meet existing local, state, and federal laws and regulations.
2. If an applicant wants to avoid implementation of best management practices, they must submit a Level 2 site evaluation report and develop and implement a monitoring program that:
 - a. Demonstrates how the applicant will prevent degradation to groundwater. The applicant must also meet existing local, state and federal laws and regulation; and
 - b. Includes quarterly reporting to the department. The department will evaluate the monitoring program and may require periodic changes based on the monitoring results, new technology, and/or BMPs.

B. Level 1 site evaluation report/approval criteria.

1. The site evaluation report shall be done by, or under the direction of, and signed by a qualified groundwater professional. The report will identify appropriate BMPs and show how they will prevent degradation of groundwater. Examples of BMPs are described in the guidance documents in Section 40.410.040(A)(4).
2. The report will identify how the applicant will follow the requirements of the Dangerous Waste Regulations, WAC 173-303, in the event hazardous material is released onto the ground or into groundwater.
3. The report will include site specific hydrogeologic information to support a conclusion of no degradation to groundwater. Hydrogeologic information is available from existing U.S. Geological Survey reports (*A Description of Hydrogeologic Units in the Portland Basin, Oregon and Washington, Water-Resources Investigation Report 90-4196*); U.S. Department of Agriculture, Natural Resources Conservation Service (Soil Survey of Clark County, Washington, 1972); Clark County; the Clark County Health Department; and from local purveyors.
4. The report will be reviewed by the department in the same process as the primary development permit. If approved, the applicant will receive a CARA permit allowing the activity on the subject property.
5. The department may waive the requirement for a qualified groundwater professional. This would be done when the site conditions or project mitigations have been, or can be, adequately addressed in the site evaluation report.

C. Level 2 site evaluation report/approval criteria.

1. A qualified groundwater professional will determine whether the proposed activity will have any adverse impacts on groundwater in CARAs. This determination must be based upon the requirements of the Safe Drinking Water Act and the Wellhead Protection Area Program, Public Water Supplies, WAC 246-290; Water Quality Standards for Ground Waters of the State of Washington, WAC 173-200; and Dangerous Waste Regulations, WAC 173-303. By this reference, WACs 173-200, 173-303, and 246-290, as written and hereafter updated, will be part of this chapter. WACs 173-303, 173-200, and 246-290 shall be available for review at the Community Development department, Public Works department, and Health department; and at local water purveyors. Copies shall be available for a fee at Community Development department and the Public Works department. Copies will also be provided to local public libraries.
2. The Level 2 site evaluation report will include the following:
 - a. Identification of the proposed development plan, along with potential impacts (e.g., on-site septic systems and other on-site activities) that may adversely impact groundwater quality underlying or down gradient of the project or project area;
 - b. Site plans or diagrams at an appropriate scale (1:2,400 or 1 inch to 200 feet) showing the location of abandoned and active wells, springs, and surface water bodies within one thousand (1,000) feet of the project or project area; and
 - c. A description of the geologic and hydrologic characteristics of the subject property including the following:

- (1) Lithologic characteristics and stratigraphic relationships,
 - (2) Aquifer characteristics including recharge and discharge areas, depth to and static water-flow patterns, and an estimate of groundwater-flow velocity,
 - (3) Contaminant fate and transport including probable migration pathways and travel time of a potential contaminant release from the site through the unsaturated zone to the aquifer(s) and through the aquifer(s), and how the contaminant(s) may be attenuated within the unsaturated zone and the aquifer(s),
 - (4) Appropriate hydrogeologic cross-sections which depict lithology, stratigraphy, aquifer, units, potential or probable contaminant pathways from a chemical release, and rate of groundwater flow,
 - (5) Existing groundwater quality, and
 - (6) A proposal for quarterly monitoring of groundwater quality to detect changes and a description of corrective actions that will be taken if monitoring results indicate contaminants from the site have entered the underlying aquifer(s).
3. The report will be reviewed by the department, in consultation with the Clark County Health Department and/or the local water purveyor, in conjunction with the same process as the primary development permit. If approved, the applicant will receive a CARA permit allowing the activity on the subject property.
- D. Appeals. Appeals of county decisions under this chapter may be filed under the provisions of Chapter 40.510.
- E. Penalties. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this chapter shall be subject to penalties as defined in RCW 70.119A; WACs 173-200 and 246-290; Title 32 of this code; and other local, state, and federal laws.

40.410.040 INCENTIVES, EDUCATION, AND TECHNICAL ASSISTANCE

A. Incentives.

1. Best Management Practices (BMPs). Individuals who implement BMPs to safeguard groundwater may not be required to provide additional geologic and hydrologic characteristics of the subject property, pursuant to Sections 40.410.030(B) and (C). Individuals shall implement the Washington Department of Ecology's Stormwater, Water Quality, Hazardous Waste, Wetland, and Solid Waste Programs BMPs; and BMPs from the Departments of Health, Agriculture, Transportation, and State Conservation District Office.
2. Maintain Open Spaces. An individual may receive a tax reduction for not creating impervious surface within Category I. Open space may allow recharge to replenish the groundwater supply.
3. Land Exchange. The purpose of land exchange is to locate high-use impacts outside Category I. State agencies and local government may convey, sell, lease, or trade existing public lands in order to obtain public ownership over all or part of a CARA. Such exchanges may occur only upon agreement between the recorded landowner and state and local agencies authorized to exchange the subject land.
4. The department shall maintain and update a library of best management practices recommended by state and federal agencies. The library shall include, but not be limited to, the following guidance documents (best management practices):
 - a. A Guide for Perspective Well Owners (WDOE, 75-011);
 - b. Guidelines for the Development of Groundwater (WDOE, 86-002);
 - c. Ground Water Resource Protection: A Handbook for Local Planners and Decision Makers (WDOE, 87-003);
 - d. Dry Cleaning Hazardous Waste Do's and Don'ts (WDOE, 91-012c);
 - e. Electroplating (WDOE, 91-0129);
 - f. Guidance for Remediation of Petroleum Contaminated Soils (WDOE, 91-030);
 - g. Protecting Ground Water: A Strategy for Managing Agricultural Pesticides and Nutrients (WDOE, 91-042);
 - h. Empty Pesticide Container Disposal (WDOE, 92-br-008);
 - i. Managing Hazardous Waste for Radiator Shops (WDOE, 92-br-009);
 - j. Managing Hazardous Waste for Transmission Shops (WDOE, 93-br-010);
 - k. Managing Hazardous Waste for Service Stations (WDOE, 93-br-013);
 - l. Managing Hazardous Waste for Tire Dealers (WDOE, 93-br-015);

- m. Surface and Ground Water on Coastal Bluffs: A Manual of Practices for Coastal Property Owners (WDOE, 93-009);
 - n. Tank Owners and Operators Guide to Using Ground Water Monitoring for UST Release Detection (WDOE, 93-012);
 - o. A Guide for Lithographic Printers (WDOE, 94-139);
 - p. A Guide for Photo Processors (WDOE, 94-138);
 - q. A Guide for Screen Printers (WDOE, 94-137);
 - r. Best Management Practices to Prevent Stormwater Pollution at Vehicle Recycling Facilities (WDOE, 94-146);
 - s. Prevention of Stormwater Pollution at Log Yards--Best Management Practices (WDOE, 95-053);
 - t. Vehicle and Equipment Washwater Discharges--Best Management Practices (WDOE, 95-056);
 - u. Best Management Practices for Auto Dealerships--Auto Wastes and Containers (WDOE, 95-405A);
 - v. Best Management Practices for Auto Dealerships--Waste Processes (WDOE, 95-405B);
 - w. Irrigation Best Management Practices to Protect Ground Water and Surface Water Quality (WDOE, 96-013);
 - x. Frequently Asked Questions Concerning Solvent and Cleaner Disposal (WDOE, 96-422);
 - y. Management Requirements for Special Waste (WDOE, 96-1254);
 - z. Drycleaners (WDOE, F-HWTR-93-541); and
 - aa. Selecting Best Management Practices for Stormwater Management (WDOE, WQ-R-93-011).
- B. Education.
- 1. Participation in the County's Business Partners for Clean Water Program. This program provides public recognition to businesses that implement BMPs, such as safely handling and disposing of chemicals in a CARA.
 - 2. Provide Free Information (Pamphlets, Fast Facts) to Building Permit Applicants About How to Protect Groundwater Inside a CARA. Applicants seeking additional information about water quality and resource management issues will be placed on the department's mailing list. In addition, owners will be notified if they are in Category I and will be placed on the department's mailing list to receive groundwater protection newsletters, fact sheets, and pamphlets.
- C. Technical assistance. To assist applicants in locating existing Group A and Group B public water supply wells in CARAs, the Clark County Health Department will provide a list of the physical location of all Group A and Group B public water supply wells in CARAs. A record of these wells will be available for review at the Clark County Health Department. Copies of the current Group A and Group B public water supply wells records may be purchased from the Clark County Health Department or Community Development department.

40.420. FLOOD HAZARD AREAS

40.420.010 INTRODUCTION

- A. Purpose. It is the purpose of this chapter to:
1. Protect human life and health;
 2. Minimize expenditure of public money and costly flood control projects;
 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 4. Minimize prolonged business interruptions;
 5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
 6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize future flood blight areas;
 7. Ensure that potential buyers are notified that property is in a flood hazard area; and
 8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- B. Applicability.
1. Land to Which This Chapter Applies. This chapter shall apply to all flood hazard areas within the jurisdiction of Clark County.
 2. Basis for Establishing the Flood Hazard Areas. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Clark County" (effective August 2, 1982 and revised July 19, 2000) and accompanying maps and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at Community Development department.
 3. Flood Plain Overlay District (FP). A Flood Plain Overlay District (FP) is hereby established and shall be applied to all one hundred (100)-year flood plains identified on the Flood Insurance Study Maps, which have been adopted by reference under Section 40.420.010(B)(2). The land use and siting provisions of these areas shall be in addition to other zoning provisions applied. Two distinct areas are recognized within the FP District, as follows:
 - a. Floodway Area. The floodway includes the channel of a river or other watercourse and land areas within 100 feet that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. For areas of special flood hazard studied in detail, the floodway boundary is delineated upon the Flood Insurance Study Maps. In all other areas of special flood hazard, the floodway boundary shall be determined by the use of other base flood data, as described in Section 40.420.030(B)(4).
 - b. Floodway Fringe Area. The floodway fringe is the land area between the boundary of the floodway and the limits of the one hundred (100)-year flood plain. In those special flood hazard areas where the floodway boundary is not delineated upon Flood Insurance Study Maps, the floodway fringe area shall be determined by the use of other base flood data, as described in Section 40.420.030(B)(4).
- C. Relationship to Other Requirements. Land uses in flood hazard areas shall be subject to all relevant local, state, or federal regulations including those of the underlying zoning district. Where applicable, permit requirements under the Shoreline Management Act (RCW 90.58), or the State Flood Control Zone Act (RCW 86.16) may be substituted for permits required under this chapter, provided that the standards of this chapter are applied.
- D. Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.
- E. Abrogation and Greater Restrictions. This chapter is not intended to repeal or impair any existing easements, covenants or deed restrictions. However, where this chapter and another code, ordinance, easement, covenant or deed restriction conflict or overlap, that which imposes the more stringent restrictions shall prevail.

- F. Interpretation. In the interpretation and application of this chapter, all provisions shall be:
1. Considered as minimum requirements;
 2. Liberally construed in favor of the governing body; and
 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- G. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purpose, and is based upon scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside flood hazard areas, or uses permitted within such areas, will be free from flooding or flood damages. This chapter shall not create liability on the part of Clark County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

40.420.020 STANDARDS

- A. Regulation of uses in the Flood Plain Overlay (FP) District.
1. Park, recreational, agricultural and other similar open space uses allowed in the underlying zoning district, and not involving structures, fill, or storage of equipment, are permitted outright in the FP District.
 2. Construction or reconstruction of residential structures is prohibited in the floodway, except in accordance with RCW 86.16 for:
 - a. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area;
 - b. Repairs, reconstruction, or improvements to a structure the cost of which does not exceed fifty percent (50%) of the market value of the structure, either:
 - (1) Before the repair or reconstruction or improvement is started, or
 - (2) If the structure has been damaged, and is being restored, before the damage occurred; provided, that any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by a code enforcement official or designee and are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the fifty percent (50%) determination; and
 - c. Travel trailers and recreational vehicles subject to the provisions set forth in Section 40.420.020(B)(2)(d).
 - d. "New construction," for the purposes of this chapter shall mean structures for which construction begins on or after March 21, 1982.
 3. Uses Allowed with Flood Plain Review.
 - a. Any use other than those permitted outright in a floodway pursuant to Sections 40.420.020(A)(1) or (2) shall be subject to the terms of a flood plain review under Section 40.420.030.
 - b. All other uses permitted in the zoning district with which the FP District has been combined are allowed in the floodway and floodway fringe areas, subject to the terms of a flood plain review under Section 40.420.030.
- B. Construction in Flood Hazard Areas.
1. General Standards. In all flood hazard areas, the following standards are required:
 - a. Anchoring.
 - (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - (2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors, and additional techniques referenced in FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook.
 - b. Construction Materials and Methods.
 - (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

- (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - c. Utilities.
 - (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
 - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
 - (3) On-site waste disposal systems shall be located or designed to avoid impairment to them or contamination from them during flooding.
 - d. Subdivision Proposals.
 - (1) All subdivision proposals shall be designed to minimize flood damage;
 - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - (4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be provided by the applicant for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).
 - e. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 40.420.030(B)(4)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness shall be a judgment of the Public Works director who shall consider historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above average grade in these zones may result in higher insurance rates.
2. Specific Standards. In all flood hazard areas where base flood elevation data has been provided as set forth in Section 40.420.010(B)(2), "Basis for Establishing the Flood Hazard Areas," or Section 40.420.030(B)(4), "Use of Other Base Flood Data," the following provisions are required:
- a. Residential Construction.
 - (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one (1) foot above base flood elevation.
 - (2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or must meet or exceed the following minimum criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (b) The bottom of all openings shall be no higher than one foot above grade; and
 - (c) Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - b. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one (1) foot above base flood elevation; or, together with attendant utility facilities, shall:
 - (1) Be flood-proofed so that one (1) foot above the base flood level elevation and below the structure is watertight with walls substantially impermeable to the passage of water;
 - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - (3) Be certified by a registered professional engineer that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the responsible official as set forth in Section 40.420.030(B);
 - (4) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in Section 40.420.020(B)(2)(a)(2); and

- (5) Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).
- c. **Manufactured Homes.** All manufactured homes to be placed or substantially improved within a one-hundred-year floodplain shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 40.420.020(B)(1)(a)(2).
- d. **Travel Trailers and Recreational Vehicles.**
 - (1) Travel trailers and Recreational Vehicles may be allowed in the floodway on a seasonal basis between May 1 and October 1 of the same year and within the floodway fringe areas on a temporary basis for fewer than 180 consecutive days.
 - (2) Wheels and hauling apparatus shall remain on travel trailers and recreational vehicles, and these vehicles shall be sited without barriers to allow their immediate removal in the event of impending flood hazard.
 - (3) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.
- e. **Critical Facilities.** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the flood hazard area. Construction of new critical facilities shall be permissible within the flood hazard area if no feasible alternative site is available. Critical facilities constructed within the flood hazard areas shall have the lowest floor elevated three feet above the base flood elevation or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should be protected to the height utilized above. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of base flood elevation shall be provided to all critical facilities to the extent possible.
- 3. **Floodways.** Located within flood hazard areas established in Section 40.420.010(B)(2) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
 - a. There is a prohibition on encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - b. If it has been adequately demonstrated that the encroachment will not result in increased flood levels, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

40.420.030 ADMINISTRATION

- A. **Establishment of Flood Plain Review.** A review shall be obtained before construction or development begins within any flood hazard area established in Section 40.420.010(B)(2). The review shall be for all structures and development as set forth in the Section 40.100.070.
- B. **Application for a flood plain review** shall be made to the responsible official, who shall be responsible for administering this chapter. Flood Plain Review application forms shall be furnished by the responsible official. The application shall include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question, and existing or proposed structures, fill, storage of materials, and drainage facilities. Specifically, the following information is required:
 - 1. Elevation, in relation to mean sea level as determined by the National Geodetic Vertical Datum (NGVD) of 1929, of the lowest floor (including basement) of all structures;
 - 2. Elevation, in relation to NGVD of 1929, to which any structure has been flood-proofed;
 - 3. Certification by a registered professional engineer that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 40.420.020(B)(2); and

4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- C. Responsibilities of the responsible official.
1. Proposed Development Review.
 - a. Review all proposed developments to determine whether or not a flood plain review is required.
 - b. Review all proposed developments with respect to the Flood Insurance Study Maps and zoning district boundaries. Make interpretations, where needed, as to the exact location of flood hazard area boundaries.
 2. The responsible official shall immediately forward the flood plain review application to the Public Works director, who shall be responsible for all technical aspects of the application, review, and enforcement of this chapter. The Public Works director shall render a decision on the proposal within thirty (30) days after receiving the application unless additional information is needed from the applicant, in which case a decision shall be made within thirty (30) days after receiving the information necessary to complete the review.
 3. Flood Plain Review.
 - a. Inform applicants about other federal, state or local permits or reviews that may be required, and provide related advice to the applicant or the Public Works director.
 - b. Accept and immediately forward flood plain review applications to the Public Works director.
 - c. Make written recommendations on flood plain review applications within the review period, when determined to be appropriate or requested by the Public Works director.
- D. Responsibilities of the Public Works director.
1. Flood Plain Review.
 - a. Review all proposals to determine that the requirements of this chapter have been satisfied.
 - b. Review all proposals to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - c. Review all proposals to determine whether the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 40.420.020(B)(3) are met.
 2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 40.420.010(B)(2), the Public Works director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from an agency of federal or state government, or other sources, in order to enforce Sections 40.420.020(B)(2) and (3).
 3. Information to be Obtained and Maintained.
 - a. Where base flood elevation data is provided through the flood insurance study or required as in Section 40.420.030(B)(4), obtain and record the actual elevation (in relation to NGVD of 1929) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. For all new or substantially improved flood-proofed structures, verify and record the actual elevation (in relation to NGVD of 1929) to which the structure was flood-proofed, and maintain the flood-proofing certifications required in Section 40.420.030(B)(3).
 - c. Maintain for public inspection all records pertaining to the provisions of this chapter.
 - d. Alteration of Watercourses.
 - (1) Notify adjacent communities and the Washington Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
 - e. Granting of flood plain variances in accordance with Section 40.420.030(D).
- E. Conditions for Variance.
1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot on one-half (1/2) acre or less in size, abutting and surrounded by lots with existing structures constructed below the base flood level, providing items (a) to (k) in Section 40.420.030(E) have been fully considered. As the lot size increases beyond the one-half 1/2) acre, the technical justification required for

- issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
 3. Variances shall only be issued upon a showing of good and sufficient cause that:
 - a. The proposal has been designed to reasonably minimize the impact on the floodplain and its functions; and
 - b. No increase in flood levels during the base flood discharge would result; and
 - c. The variance is the minimum necessary, considering the flood hazard, to afford relief; and
 - d. Failure to grant the variance would result in exceptional hardship to the applicant; and
 - e. The hardship is not created by the property owner or its immediate predecessor in the title; and
 - f. The granting of a variance will not result on increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 40.420.030(E), nor conflict with existing local laws or ordinances.
 4. Variances, as interpreted in the National Flood Insurance Program, are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
 5. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry-flood-proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except Section 40.420.030(D)(1), and otherwise complies with Sections 40.420.020(B)(1)(a) and (b) of the “general standards.”
 6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the significantly increased risk resulting from the reduced lowest floor elevation.
 7. The Public Works director shall report any variances to the Federal Emergency Management Agency upon request.
- F. Appeals. Administrative decisions rendered by the responsible official or the Public Works director are subject to appeal according to Section 40.510.020.
1. In acting on appeals, the hearings examiner shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this chapter; and
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the Comprehensive Plan and Flood Plain Management Program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
 2. Upon consideration of the factors of Section 40.420.030(E)(1) and the purposes of this chapter, the hearings examiner may attach such conditions to actions on appeals as it deems necessary to further the purpose of this chapter.
 3. The responsible official shall maintain the records of all appeal actions.

G. Federal Flood Insurance Program.

1. Established. The board assures the Federal Insurance Administration that it will take further legislative action needed to meet the requirements of Sections 1910.3 and 1910.4 of the National Flood Insurance Regulations and will take such other appropriate official actions as may be reasonably necessary to carry out the objectives of the program. Such actions will include but not be limited to:
 - a. Delineation of the limits of the areas having special flood and/or mudslide hazards on adequate maps of sufficient scale to identify the location of building sites;
 - b. Providing such information as the administrator may request concerning present uses and occupancy of the flood plain and/or mudslide area;
 - c. Maintaining for public inspection and furnishing upon request, with respect to each area having special flood hazards, information on elevations (in relation to mean sea level) of the lowest floors of all new or substantially improved structures and, where there is a basement, the distance between the first floor and the bottom of the lowest opening where water flowing on the ground will enter; and
 - d. Providing the name of the individual and the office that will be responsible for furnishing the first floor elevation information;
 - e. Cooperating with Federal, state and local agencies and private firms which undertake to study, survey, map, and identify flood plain or mudslide areas, and cooperate with neighboring communities with respect to management of adjoining flood plain and/or mudslide areas in order to prevent aggravation of existing hazards.
2. Administrative Authority. The board appoints the Public Works director with the responsibility, authority and means to submit on the anniversary date of the community's initial eligibility, an annual report to the administrator on the progress made during the past year within the county in the development and implementation of flood plain and/or mudslide area management measures and to implement all other commitments made herein.
3. Certification of eligibility. The Public Works director is authorized to file with the administrator of the National Flood Insurance Program such materials as are necessary for certification of eligibility to permit areas of Clark County, Washington, to secure flood insurance under the Federal program.

40.430 GEOLOGIC HAZARD AREAS

40.430.010 INTRODUCTION

- A. Purpose. The purpose of this chapter is to safeguard public health, safety and welfare by placing limitations on development in geologically hazardous areas consistent with the requirements of the Growth Management Act and WAC 365-190-080.
- B. Applicability and exemptions.
1. Applicability. This chapter applies to all construction, development, earth movement, clearing, or other site disturbance which requires a permit, approval or authorization from the county in or within one hundred (100) feet of a geologic hazard area except for exempt activities listed in subsection (B)(2). Regulated geologic hazards include steep slope hazard areas, landslide hazard areas and seismic hazard areas.
 2. Exempt Activities and Uses. The following activities and uses are exempt from the provisions of this chapter:
 - a. Emergency activities which require immediate action to prevent an imminent threat to health, safety or property. As soon as practical, the responsible party shall provide written notification to the responsible official and obtain all applicable permits;
 - b. The expansion, remodel, reconstruction or replacement of any structures which will be set back from the geologic hazard area a distance which is greater than or equal to the setback of the original structure and which will not increase the building footprint by more than one thousand (1,000) square feet inside a steep slope hazard area, landslide hazard area or their buffers;
 - c. Any replacement, operation, repair, modification, installation or construction by a state or locally franchised utility company in an improved right-of-way or utility corridor;
 - d. Normal and routine maintenance and repair of existing utility facilities, equipment and appurtenances;
 - e. Any development activity on or within one hundred (100) feet of steep slopes that have been created through previous, legal grading activities is exempt from steep slope hazard regulations; and
 - f. All forest practices other than Class IV G (conversions).
 3. This chapter applies to Class IV G forest practices (conversions).
- C. Geologic hazard area maps and designation criteria.
1. Maps.
 - a. Adopted Maps. Maps signed by the board entitled:
 - (1) Severe Erosion Hazard Areas.
 - (2) Relative Earthquake Hazard Map – Vancouver Urban Area.
 - (3) Steep Slopes and Landslide Hazards; are adopted by reference and are on file with the County Auditor.
 - b. Identification. Geologic hazards are usually localized individual occurrences that may affect only small, separate areas. In addition, activities such as grading and clearing can create or increase slope instability where none was previously identified. Because of this, geologic hazard areas have not been identified on a site-specific basis.
 - c. Source data. The approximate location and extent of geologic hazard areas are shown on the geologic hazard area maps adopted herein. The county will adopt updated mapping as more detailed information becomes available. The maps are intended to meet the designation criteria listed in WAC 365-190-080 and are based on the best available information, including:
 - (1) Slope Areas Mapping for Clark County, Clark County Department of Assessment and GIS;
 - (2) Slope Stability of Clark County, Washington Department of Natural Resources, 1975 and landslides mapped in Geologic Map of the Vancouver Quadrangle, Washington and Oregon, Washington Department of Natural Resources, 1987; and
 - (3) Relative Earthquake Hazard Map for the Vancouver, Washington Urban Region, Washington Department of Natural Resources, 1994.
 - d. Map updates. Results of binding pre-determinations and other site investigations required under this chapter and the building code will be compiled by the department and incorporated into future geologic hazard area map revisions. The county will adopt updated maps as more detailed information

- becomes available. The review of such new information shall include local geologists and engineers familiar with the requirements of this chapter and how it is applied to new development.
2. Designation criteria. Along with geologic hazard area mapping, designation criteria are listed for steep slope hazard areas, landslide hazard areas and seismic hazard areas are listed below. Where the geologic hazard area maps and designation criteria conflict, the designation criteria shall prevail.
 - a. Steep slope hazard areas are areas where there is not a mapped or designated landslide hazard, but there are steep slopes equal to or greater than forty percent (40%) slope. Steep slopes which are less than ten (10) feet in vertical height and not part of a larger steep slope system, and steep slopes created through previous legal grading activity are not regulated steep slope hazard areas. The presence of steep slope suggests that slope stability problems are possible.
 - b. Landslide hazard areas are areas that, due to a combination of slope inclination, soil type and presence of water are susceptible to landsliding in accordance with the following criteria:
 - (1) Areas of previous slope failures including areas of unstable old or recent landslides;
 - (2) Areas with all three (3) of the following characteristics:
 - (a) Slopes steeper than fifteen percent (15%),
 - (b) Hillsides intersecting geologic contacts with permeable sediment overlying a low permeability sediment or bedrock, and
 - (c) Any springs or groundwater seepage;
 - (3) Slopes that are parallel or sub-parallel to planes of weakness, such as bedding planes, joint systems and fault planes in subsurface materials;
 - (4) Areas mapped by:
 - (a) Washington Department of Natural Resources Open File Report: Slope Stability of Clark County, as having potential instability, historical or active landslides, or as older landslide debris, and
 - (b) The Washington Department of Natural Resources Open File Report Geologic Map of the Vancouver Quadrangle, Washington and Oregon, as landslides;
 - (5) Slopes greater than eighty percent (80%), subject to rock fall during earthquake shaking;
 - (6) Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and stream undercutting the toe of a slope;
 - (7) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows, debris torrents or catastrophic flooding;
 - (8) Areas within one hundred (100) feet of an open-pit mine sites subject to steep slope hazard or landslide hazard.
 - c. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake-induced soil liquefaction, ground shaking amplification, slope failure, settlement, or surface faulting. Relative seismic hazard is mapped on Plates 1 and 2 of the report Relative Earthquake Hazard Map of the Vancouver, Washington, Urban Area, published by the Washington Department of Natural Resources.
 - D. Relationship to Chapter 40.570 environmental impacts. Geologic hazard area protective measures required by this section shall constitute adequate mitigation of significant adverse environmental impacts related to geologic hazards for purposes of Chapter 40.570.
 - E. Reasonable use assurance. Nothing in this section shall preclude the issuance of a single-family building permit on a lawfully created lot.
 - F. Density transfer. Land divisions regulated by this section may be eligible for density transfers under Section 40.220.010(C)(2).
 - G. Open space tax incentives. Tax incentives may be available for owners of land set aside in landslide protection hazard areas through the open space taxation program.

40.430.020 STANDARDS

- A. General. The following requirements for development activities in geologic hazard areas list prohibited activities, buffer requirements, and setback requirements. The following section describes required buffers and setbacks, and general requirements for development activities in geologic hazard areas.
1. Development on steep slope hazard areas is regulated to prevent potential landslide damage by placing improvements away from steep slopes and leaving steep slopes in natural vegetation.
 2. Development in landslide hazard areas is generally not allowed, and requires buffers that keep vegetation in a natural state on and around the landslide hazard area.
 3. Seismic hazards due to liquefaction, ground shaking amplification and landslides exist for large areas of the county. Only detailed site analysis can determine how soils and structures will respond at a particular site. Site investigation requirements of the Uniform Building Code are used to ensure that structures are built to minimum safety standards based on existing knowledge of earthquake hazard. Section 40.430.020(F) provides additional guidelines describing where site investigations should be required for seismic design.
 4. If an applicant wishes to perform development activities not allowed by Sections 40.430.020(D) and (E), a geologic hazard area study meeting the requirements of subsection (4) of Section 40.430.030(C) must be completed. The development proposal may be approved, approved with conditions, or denied based on the responsible official's evaluation of the suitability of the mitigation measures proposed by the geologic hazard area study to protect life, safety, and slope stability on abutting properties.
- B. Erosion requirements. All activities on hillsides subject to severe erosion hazard must minimize erosion by following management practices prescribed by the erosion control standards of Chapter 40.380.
- C. Stormwater requirements. For projects within one hundred (100) feet of steep slope hazard areas or landslide hazard areas, runoff shall not be infiltrated into the ground. Runoff should be directed through a water-tight pipe beyond the base of the slope or landslide area and discharged to a suitable drainage way. An energy dissipating device shall be placed at the discharge point.
- D. Steep slope hazard areas.
1. Except for mineral extraction practices, development activity on or within one hundred (100) feet of slopes steeper than forty percent (40%) that do not have a mapped or designated landslide hazard shall comply with the requirements of this section.
 2. Buffer and Setback Distances.
 - a. Activities at the base of ascending slopes (building at the bottom of a steep slope):
 - (1) For slopes greater than or equal to forty percent (40%) and less than one hundred percent (100%), buffers shall extend a distance away from the toe of the slope that is equal to the vertical height of the slope divided by two, but not to exceed fifteen (15) feet (Figure 40.430.020-1). For slopes less than one hundred percent (100%), the toe of the slope is defined as a distinct break in slope at the base of a steep slope.
 - (2) For slopes greater than one hundred percent (100%), the buffer shall extend a distance back from the toe of the slope equal to the height of the slope divided by two, not to exceed fifteen (15) feet. The buffer shall be measured horizontally from a plane, drawn tangent to the top of the slope at an angle of forty-five (45) degrees to the proposed structure (Figure 40.430.020-3).
 - (3) The setback shall be eight (8) feet beyond the buffer.
 - b. Activities at the tops of descending slopes (building at the top of a steep slope):
 - (1) For slopes greater than or equal to forty percent (40%) and less than one hundred percent (100%), buffers shall extend a distance back from the top of the slope equal to the vertical height of the slope divided by three, but not to exceed forty (40) feet. The top of the slope is defined as a distinct break in slope at the top of a steep slope (Figure 40.430.020-1).
 - (2) For slopes greater than one hundred percent (100%), the buffer shall extend a distance back from the top of the slope equal to the height of the slope divided by three, but not to exceed forty (40) feet. The buffer shall be measured horizontally from a plain drawn at forty-five (45) degrees (one hundred percent (100%) slope) from the toe of the slope to the proposed structure (Figure 40.430.020-2).
 - (3) The setback shall be eight (8) feet beyond the buffer.

- c. For projects not required to have a landslide protection area under Section 40.430.030(B), the setback from the steep slope shall be equal to the buffer distance set in this subsection.
 - 3. The responsible official may approve buffers and setbacks which differ from those required by subsection (1) of this section if the applicant submits a geologic hazard area study described in Section 40.430.030(C), which technically demonstrates and illustrates that the alternative buffer provides protection which is greater than or equal to that provided by the buffer required in subsection (D)(1) of this section.
 - 4. The responsible official may increase buffers or setbacks where necessary to meet requirements of the Uniform Building Code.
 - 5. All portions of steep slope hazard areas and steep slope buffers on the site which are planned to be undisturbed by permitted development activities shall be designated as landslide protection areas in accordance with Section
 - 6. Other than for exemptions listed in Sections 40.430.010(B) and 40.430.030(B), vegetation removal is not allowed on slopes over forty percent (40%) without an approved geologic hazard area study described in Section 40.430.030(C).
 - 7. Buffers, landslide protection areas and setbacks for steep slopes on projects having approved grading shall be based on regulated steep slopes that remain after that grading.
- E. Landslide hazard areas.
- 1. A development proposal on a site containing a landslide hazard area shall meet the following requirements:
 - a. A minimum buffer of fifty (50) feet shall be established from all edges of the landslide hazard area. The buffer shall be extended as required to mitigate a steep slope or erosion hazard or as otherwise necessary to protect the public health, safety and welfare; and
 - b. All portions of landslide hazard areas and buffers shall be designated as landslide protection areas in accordance with Section 40.430.030(B).
 - 2. Other than exempt activities, clearing or alteration of a landslide is allowed only if the following are met:
 - a. A development proposal does not decrease slope stability on contiguous properties;
 - b. Mitigation is based on best available engineering and geological practice and is described in an approved geologic hazard area study as specified in Section 40.430.030(C).
 - 3. Neither buffers nor a landslide protection area will be required if the activity meets the requirements of subsection (E)(2) of this section.
- F. Seismic hazard areas. Development activity in a seismic hazard area shall meet all applicable provisions of the Uniform Building Code, as adopted by the county. The department shall use the site specific seismic hazard investigation requirements based on relative earthquake hazard mapping described in Using Relative Earthquake Hazard Mapping for Land Use Planning and Building Permit Administration published by Metro, Portland, Oregon, May 1996, attached as Table 40.430.020.

Figures 40.430.020-1 through Figure40.430.020-3

Table 40.430.020-1. Site Specific Seismic Hazard Investigation Requirements Based on a Relative Earthquake Hazard Map					
4 = Site investigation with panel peer review required. 3 = Site investigation required unless data suggest otherwise. 2 = Site investigation not required unless data suggest otherwise. 1 = Site investigation not required. (a) Discretion should be applied so that unnecessary site investigations are not required for smaller buildings within these categories. Guidelines to determine when investigations are needed should be established. (b) Site investigation required if stipulated in a subdivision approval or other development approval of the planning agency. (Confirm definition.)					
Land Use Group	Land Uses	Relative Earthquake Hazard Zone			
		A	B	C	D
Earthquake Performance Objective is Fully Functional (Acceptable risk is near zero)					
Potential Catastrophe if Damaged	Large dams	4	4	4	4
	Nuclear plants	4	4	4	4
	Facilities using/storing large quantities of hazardous materials	4	3	3	3
Earthquake Performance Objective is Immediate Occupancy (Acceptable risk is very low)					
High-Occupancy with Involuntary or Dependent Occupants	Day care centers <250 kids	3	3	2	1
	Day care centers >250 kids	3	3	2	1
	Schools K-12 <300 students	3	3	2	1
	Schools K-12 >300 students	3	3	2	1
High-Occupancy with Involuntary or Dependent Occupants	Convalescent homes <50 persons	3	3	2	1
	Convalescent homes >50 persons	3	3	2	1
	Jails and detention facilities	3	3	2	1
Essential for Emergency Response	Fire and police stations	3	3	3	2
	Garages for emergency vehicles	3	3	3	2
	Water tanks	3	3	3	2
	Structures housing fire suppressants	3	3	3	2
	Government communications centers	3	3	3	2
	Emergency response centers	3	3	3	2
	Hospitals	3	3	3	2
	Medical building with surgical services	3	3	3	2
Critical to the Functioning of Clark County	Large power plants	3	3	3	2
	Power interties	3	3	3	2
	Sewage treatment plants	3	3	3	2
	Water plants	3	3	3	2
	Regional highways and bridges and tunnels	3	3	3	2
	Regional rail lines	3	3	3	2
	Airports	3	3	3	2
	Port facilities	3	3	3	2
	Major communications facilities	3	3	3	2

Table 40.430.020-1. Site Specific Seismic Hazard Investigation Requirements Based on a Relative Earthquake Hazard Map

- 4 = Site investigation with panel peer review required.
 3 = Site investigation required unless data suggest otherwise.
 2 = Site investigation not required unless data suggest otherwise.
 1 = Site investigation not required.
 (a) Discretion should be applied so that unnecessary site investigations are not required for smaller buildings within these categories. Guidelines to determine when investigations are needed should be established.
 (b) Site investigation required if stipulated in a subdivision approval or other development approval of the planning agency. (Confirm definition.)

Land Use Group	Land Uses	Relative Earthquake Hazard Zone			
		A	B	C	D
	Telephone exchanges	3	3	3	2
	Radio and TV stations	3	3	3	2
Earthquake Performance Objective is Damage Control (Acceptable risk is very low)					
High Occupancy	Buildings >10 stories	3	3	2	1
	Public and private colleges <500 occupants	3	3	2	1
	Public and private colleges >500 occupants	3	3	2	1
	Public assembly places with >300 capacity	3	3	2	1
	Hotels/motels >50 rooms >60,000' >10 stories	3	3	2	1
	Major industries and employers	3	3	2	1
	Apartments >25 units	3	3	2	1
	Buildings with >150 employees	3	3	2	1
Important Local Impacts if Damaged	Facilities using/storing small quantities of hazardous materials	3	3	2	1
	Small dams that could cause flooding	3	3	2	1
	Gas stations	2	2	2	1
	Highways, streets, bridges	2	2	2	1
	Utility lines, substations, and gas mains	3	3	2	1
	Water and sewer mains	3	3	2	1
	Industries/business important to economy	2	2	2	1
	Health care clinics	2	2	2	1
	Co-generation power plants	3	3	2	1
Earthquake Performance Objective is Substantial Life Safety (Acceptable risk is moderate)					
Moderate Occupancy	Buildings with 4 to 10 stories	3	3	2	1
	Multi-family buildings with 9 to 25 units (b)	3	3	2	1
	Buildings with 50 to 150 employees	3	3	2	1
Moderate Occupancy	Buildings with 50 to 150 employees >60,000' >10 stories	3	3	2	1
	Public assembly places: 50 to 300 capacity	3	3	2	1
	Hotels/motels <50 rooms <60,000' <10 stories	3	3	2	1
Low Occupancy	Multi-family buildings with 2 to 8 units (a)	2	2	1	1
	Buildings with <50 employees (a)	2	2	1	1
	Buildings with 1 to 3 stories (a)	2	2	1	1
	Public assembly places with <50 capacity (a)	2	2	1	1
	Single-family houses (b)	2	2	1	1
	Manufactured dwelling (b)	2	2	1	1

40.430.030 ADMINISTRATION

- A. Binding pre-determination. Prior to submittal of a triggering application, a person may request from the responsible official, through a Type II application process described in Section 40.510.020, a written binding pre-determination of whether a probable regulated geologic hazard area exists on or within 100 feet of any parcel less than forty (40) acres. The pre-determination shall be binding on the responsible official for a period of three (3) years; provided, that such pre-determination shall be subject to administrative appeal upon its application in conjunction with a triggering application. The fee for a pre-determination is set forth in Chapter 6.130. A complete predetermination shall include a list of the submittal requirements for a site description under Section 40.430.030(C)(3). Additional submittal requirements may later be required as a part of a geologic hazard area study under Section 40.430.030(C)(4) if the proposal intends to develop within a steep slope or landslide hazard area, or their buffers.
- B. Establishment of landslide protection areas.
1. Steep slope hazard areas and landslide hazard areas and buffers for which permanent protection is required pursuant to Sections 40.430.020(D) and (E) shall be designated landslide protection areas.
 2. Landslide protection area requirements apply only to site plans and land divisions.
 3. For all development activities subject to this section, landslide protection areas shall be delineated on binding site plans and plots which shall be recorded with the County Auditor.
 4. A conservation covenant applicable to the designated landslide protection area shall be recorded in a form approved by the Prosecuting Attorney as adequate to incorporate the restrictions of this chapter.
 5. Prior to any site development activity, the applicant shall mark with temporary markers in the field the boundary of all landslide protection areas required by this chapter, or the limits of the proposed site disturbance outside of the landslide protection areas, using methods and materials acceptable to the county.
 6. Landslide protection area boundaries shall be permanently marked on the site prior to final inspection by the county using methods and materials acceptable to the county.
 7. Vegetation clearing requirements for development in landslide protection areas, steep slope hazard areas and landslide hazard areas.
 - a. Clearing or vegetation removal in landslide protection areas, steep slope hazard areas or landslide hazard areas or their buffers is prohibited except for:
 - (1) Activities included in an approved geologic hazard area study as defined in Section 40.430.030(C);
 - (2) Limited vegetation removal for surveying and testing necessary for development approvals;
 - (3) Emergency or fire hazard removal authorized by the fire marshal;
 - (4) Removal of nuisance vegetation using methods which minimize disruption of soil and non-nuisance vegetation;
 - (5) Clearing necessary for placement or maintenance of fencing;
 - (6) Clearing necessary for hillside vegetation restoration;
 - (7) Clearing necessary for vegetation or resource conservation projects authorized by a public agency; and
 - (8) Clearing for three (3) foot wide or narrower foot paths surfaced with wood, soil or gravel.
 - b. Proposals for clearing may also be subject to other critical areas regulations. Wildlife habitat near streams, which have clearing requirements under the habitat conservation regulations, often overlap with steep slopes included in geologic hazard areas.
- C. Submittal requirements.
1. For development activity regulated by this chapter, submittal requirements will vary depending on the type of project and the type of hazard mitigations that are proposed. Pursuant to Section 40.500.010, a review of a geologic hazard area will be conducted in conjunction with the primary development application. Projects are required to submit a basic site description sufficient to verify that the location of proposed building and access road improvements comply with buffers, setbacks, and vegetation preservation required by Sections 40.430.020(D) and (E). If a regulated activity is proposed within a geologic hazard area, additional

information in the form of a geologic hazard area study must be provided to assure the project is feasible and will not cause an increased geologic hazard. The information required for a site description is included in subsection (C)(3) of this section. The requirements for a geologic hazard area study for projects wishing to build in a geologic hazard area are included in subsection (C)(4) of this section. To avoid duplication, the information required by this section shall be coordinated by the county with the assessments and requirements for other associated permits.

2. The responsible official shall waive parts of the submittal requirements if it is determined that they are not applicable to the proposed activity.
3. Site Description. As part of the development permit application, the following information describing the subject property and areas within twenty-five (25) feet of the property lines or smaller area of concern as deemed appropriate by the responsible official, drawn to an engineering scale no larger than one inch equals twenty feet (1" = 20') and no smaller than one inch equals one hundred feet (1" = 100') as deemed appropriate by the responsible official:
 - a. The site boundary lines;
 - b. The topography at contour interval of no greater than five (5) feet;
 - c. The location and size of all existing and proposed site improvements including structures, wells, drainfields, drainfield reserve areas, public and private right-of-way easements, and utilities;
 - d. The location of all drainage-flow characteristics, streams, groundwater seeps, springs, and evidence of seasonal surface water runoff or groundwater;
 - e. The location and extent of all existing and proposed grading activities and existing natural or artificial drainage control facilities and systems;
 - f. The location and description of all geologic hazards located on the site and observed on properties within one hundred (100) feet of site boundaries;
 - g. The general location of all vegetation and the general location, number and description of all trees over six- (6) inch diameter measured three (3) feet above the ground; and
 - h. The location of all proposed buffers and setbacks.
4. Geologic Hazard Area Study. A geologic hazard area study is required if the proposed development does not comply with requirements of Sections 40.430.020(D), steep slope hazard areas, or Section 40.430.020(E), landslide hazard areas. Geologic investigation may also be required in some cases to meet Uniform Building Code requirements for foundations and for seismic design. Geologic hazard area studies shall be prepared, stamped and signed by a geotechnical engineer or geologist who meets the requirements defined in Section 40.100.070. Based on the site characteristics and the information submitted by the applicant, the responsible official may require all or part of the following information to be included in a geotechnical report:
 - a. The requirements for the site description listed above in subsection (C)(3) of this section;
 - b. Site geology information:
 - (1) Topographic contours at two- (2) foot intervals or as specified by the responsible official;
 - (2) Subsurface data that includes the exploration method, location of soil borings, borings, logs, soil and rock stratigraphy and groundwater levels including seasonal changes;
 - (3) The location of landslides, or down-slope soil movement, faults, and geologic contacts on the subject property and adjacent properties;
 - (4) A site history that describes any prior grading, soil instability or slope failure; and
 - (5) A description of the site vulnerability to seismic events.
 - c. Geotechnical information and plan requirements:
 - (1) A slope stability study and opinion of slope stability on the subject property and adjacent properties;
 - (2) Grading plan;
 - (3) Structural foundation requirements and estimated foundation settlements;
 - (4) Soil compaction criteria;
 - (5) Allowable soil-bearing pressure for foundations, minimum footing widths, piling recommendations for foundations, and design pressure for retaining walls;
 - (6) Laboratory data and soil index properties for soil samples;
 - (7) Suitability for fill;
 - (8) Lateral earth pressures;
 - (9) Description of erosion vulnerability and an erosion control plan as required in Chapter 40.380;

- (10) An evaluation of proposed surface and subsurface drainage in a stormwater control plan as required in Chapter 40.380;
 - (11) Building limitations; and
 - (12) A vegetation management and restoration plan or other means for maintaining long-term stability of slopes.
- d. A site evaluation that describes the suitability of the site to accommodate the proposed activity;
 - e. Such additional information describing existing physical features for the site and surrounding area as required by the responsible official to complete review of the project under standards of the Uniform Building Code.

40.440 HABITAT CONSERVATION

40.440.010 INTRODUCTION

- A. Purpose. The purpose of this chapter is to protect environmentally distinct, fragile and valuable fish and wildlife habitat areas, as defined in Section 40.440.010(C) for present and future generations, while also allowing for reasonable use of private property. This chapter intends to conserve the functional integrity of the habitats needed to perpetually support fish and wildlife populations.
1. These purposes are to be carried out by reviewing impacts of proposed activities within designated habitat areas, and through the development of education, outreach and incentive programs. Review under this chapter shall be based on best available science and the mandates of the Washington Growth Management Act, and shall include consultation with the Washington Department of Fish and Wildlife. The county shall emphasize education and voluntary conservation options prior to regulatory enforcement.
 2. Within areas designated by this chapter, development or clearing activities which degrade habitat should generally be avoided where possible. However, activities listed as exempt in this chapter can be undertaken in habitat areas without additional review. Activities not listed as exempt can be undertaken following county review if they do not substantially diminish the habitat functions and values present.
 3. It is the intent of the board that this chapter be administered with flexibility and attention to site-specific characteristics.
- B. Applicability.
1. General. Review under the standards of this chapter shall apply to any proposed development or non-development clearing activities within designated habitat areas, defined in Section 40.440.010(C), which are not listed as exempt, pursuant to Table 40.440.010-1.
 - a. Development activities are those proposals already subject to existing county land division, building, grading or other review processes.
 - b. Non-development clearing activities are proposals which are not otherwise subject to county review, but involve the alteration or removal of vegetation in designated habitat areas.
 2. Activities Adjacent to Certain Designated Habitat Areas. Proposed new single-family residential development occurring immediately outside but within three hundred (300) feet of designated priority species polygons or within one hundred (100) feet of designated non-riparian priority habitat polygons shall require consultation with the Washington Department of Fish and Wildlife prior to issuance of a development permit. In such cases, further review under this chapter is not required unless DFW finds that there are potential adverse impacts. Other proposed land divisions and nonresidential development adjacent to designated wildlife sites shall be subject to SEPA as normally required by Chapter 40.570, and mitigative measures established if there are adverse impacts to the adjacent designated habitat areas.
 3. Exempt Activities.
 - a. All proposed activities outside designated habitat areas are exempt from review under this chapter, except where noted in Section 40.440.010(B)(2) above.
 - b. Within designated habitat areas exempt activities are listed in Section 40.440.010(D). These do not require review.
 - c. Proposed activities within habitat areas which are not consistent with an approved stewardship plan shall be subject to the provisions of Section 40.440.010(D).
- C. Habitat areas covered by this chapter.
1. Categories. This chapter shall apply to nonexempt activities as defined in Table 40.440.010-1 that are proposed within the following habitat areas:
 - a. Riparian priority habitat: Areas extending outward from high water mark to the edge of the one hundred- (100) year floodplain, or the following distances, if greater:
 - (1) DNR Type 1 and 2 waters, 250 feet;
 - (2) DNR Type 3 waters, 200 feet;
 - (3) DNR Type 4 and 5 waters, 150 feet.Type 1-5 definitions based on WAC 222-16-031. Erosion gullies or rills, and streams which are man-made, less than six (6) inches wide or not having a defined bed and/or bank are not included.

- b. Other priority habitats and species (PHS): Areas identified by and consistent with the Washington Department of Fish and Wildlife priority habitats and species criteria, including areas within one thousand (1,000) feet of individual species point sites. The county shall defer to the Washington Department of Fish and Wildlife in regards to classification, mapping and interpretation of priority habitat species.
 - c. Locally important habitats and species: Areas legislatively designated and mapped by the county because of unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators. The chapter shall not apply to areas which have not been designated on official mapping. The criteria for mapping of these areas are that they possess unusual or unique habitat warranting protection because of qualitative species diversity or habitat system health indicators. Recommendations for mapping areas meeting these criteria may be submitted by any person or group, and shall be reviewed annually by the county in conjunction with the plan amendments docket process as specified by Section 40.560.030. Notice of any such recommendations deemed to merit formal consideration shall be provided to impacted property owners. Such recommendations will not be reviewed as part of individual development requests.
2. Mapping.
 - a. The above habitat areas are mapped on a countywide basis in the adopted "Priority Habitats and Species Map". Maps are on file in the department and are available for public viewing and circulation. Further distribution of mapped information and notification to potentially impacted property owners will be completed as indicated in Sections 40.440.020(D)(1) and 40.440.020(E)(1).
 - b. Maps of individual locations of sensitive, threatened, or endangered wildlife species are maintained separately. Under law, this information is not available for widespread public distribution unless authorized by the Washington Department of Fish and Wildlife. However, property owners may obtain all existing information for their properties upon request.
 - c. Official maps shall be updated by the county as warranted by new information using the annual review process.
 3. Best Available Science. Definitions and maps of habitat areas are based on best available science described in the following documents: 1996 Washington Department of Fish and Wildlife Priority Habitats and Species List; 1995 Management Recommendations for Washington's Priority Habitats; and associated GIS datafiles maintained by Clark County Department of Assessment and GIS. Best available scientific data supporting this chapter may be updated and/or re-evaluated as part of future UDC amendments.
 4. Determining Site Specific Applicability. In the event of inconsistencies, official habitat area definitions shall prevail over countywide maps in determining applicability of this chapter. The county shall follow the recommendations of the Washington Department of Fish and Wildlife in the interpretation of site-specific conditions as they relate to the definition of priority habitat and species.

D. Activities reviewed under this chapter. This chapter applies to activities within designated priority and locally important habitat areas as described in Table 40.440.010-1.

Table 40.440.010-1. Exempt and Reviewed Activities		
Proposal	Is a clearing review required?	Are any additional fees or review timelines required?
Land division or lot reconfiguration entirely outside habitat areas	No. Exempt	Fees pursuant to Chapter 6.130
Land division or lot reconfiguration containing habitat areas	Exempt if impacted lots establish building and clearing envelopes outside of habitat	Fees pursuant to Chapter 6.130. Adjustment to allow smaller lots necessary for critical lands protection can be provided without additional fees if consistent with overall zoning density as per Section 40.440.020(C)(1)
Any activities on lots not in habitat areas	Exempt	None
Any activities on portions of lots not containing habitat areas	Exempt	None

Table 40.440.010-1. Exempt and Reviewed Activities		
Proposal	Is a clearing review required?	Are any additional fees or review timelines required?
Remodel, replacement or expansion, not to exceed 25% of the 1997 footprint, of existing home or existing accessory buildings inside habitat areas. Home remodels, replacements or expansions of up to 500 square feet, or mobile home replacements of single-wide with double-wide models are also exempt	Exempt	None
Farming, forestry or vegetation removal activities inside existing yards, areas of existing agricultural use, or existing cultivated portion of habitat areas	Exempt	None
Clearing authorized by forest practices applications other than conversions in habitat areas	Exempt	None
Emergency clearing to abate immediate danger to persons or property	Exempt	None
Fire hazard clearing recommended by fire marshal, or consistent with written fire marshal or fire chief guidelines in habitat areas	Exempt	None
Clearing of defined nuisance vegetation in habitat areas which utilize methods that minimize disturbance of soils and non-nuisance vegetation	Exempt	None
Clearing as minimally necessary for placement of fencing, private wells, septic systems or individual lot sewer, water, electrical or utility connections in habitat areas, where practical alternatives do not exist	Exempt	None
Clearing as minimally necessary for stream bank restoration, for native replanting or enhancements in habitat areas	Exempt	None
Clearing as minimally necessary for soil, water, vegetation or resource conservation projects having received an environmental permit from a public agency in habitat areas	Exempt	None
Clearing as minimally necessary for creating a 4-foot or narrower path using natural, wood-based, or gravel surfacing in habitat areas	Exempt	None
Clearing as minimally necessary for surveying or testing in habitat areas	Exempt	None
Clearing or development in riparian habitat areas which is at least 100 feet from the waterline and separated by a continuous public or private roadway serving 3 or more lots	Exempt	None
Non-development clearing activities in habitat areas consistent with a recorded stewardship plan for which any mitigation specified in the plan is timely completed	Exempt	None
New home or other construction in habitat areas	Review required	No additional timelines. Applicable review (building permit, etc.) must comply with ordinance standards. Fees pursuant to CCC Title 6

Table 40.440.010-1. Exempt and Reviewed Activities		
Proposal	Is a clearing review required?	Are any additional fees or review timelines required?
All other vegetation clearing in habitat areas	Review required	Fees pursuant to CCC Title 6. Applicable review, if any, must comply with ordinance standards. If no other review involved, clearing request will be reviewed administratively

40.440.020 STANDARDS AND NON-REGULATORY MEASURES

- A. Approval criteria. Approval shall be granted for all proposals demonstrating compliance with the following criteria. Approval shall be required prior to clearing or development.
1. Intent. Designated habitats are to be protected through avoidance or reduction of most activities. This section provides standards for the review of proposed nonexempt activities within designated habitat areas.
 2. Basic Criteria. Applicants proposing activities subject to this chapter shall demonstrate that the activity:
 - a. Substantially maintains the level of habitat functions and values; and
 - b. Minimizes habitat disruption or alteration beyond the extent required to undertake the proposal.
 3. Mitigation Measures. Mitigation measures may be established pursuant to the above basic criteria. Subject to individual circumstances, potential mitigation measures may include, but are not limited to the following:
 - a. Avoiding the impact all together by not taking a certain action or parts of an action;
 - b. Exploring alternative on-site locations to avoid or reduce impacts of activities;
 - c. Preserving important vegetation and natural habitat features by establishing buffers or by limiting clearing or alteration;
 - d. Enhancing, restoring or replacing vegetation or other habitat features and functions. In riparian areas, this may include buffer averaging as specified in Section 40.440.220(C)(3);
 - e. Managing access to habitat areas;
 - f. Seasonal restriction on construction activities;
 - g. Implementing best management practices;
 - h. Monitoring or review of impacts;
 - i. Establishing performance measures or bonding;
 - j. Establishing conservation covenants.
 4. The responsible official shall approve, approve with conditions or deny proposals based on compliance with the criteria and the adequacy of proposed mitigation measures to ensure compliance, and applicable reasonable use assurances of Section 40.440.020(B).
 5. The responsible official shall retain final authority for such determinations, which shall be issued consistent with the review timelines of Chapter 40.510, and shall be based on best scientific information and analysis available within those timelines.
 6. The responsible official shall consult with and substantially follow the resulting recommendations of the Washington Department of Fish and Wildlife, unless alternative determinations are supported by scientific analysis.
- B. Reasonable use assurances. The following assurances shall apply in implementing the standards of this chapter:
1. The standards of this chapter shall not be used to preclude the placement of a single-family residence on an otherwise legally buildable lot of record. Standards may be applied on established properties to limit the proposed location of structures and proposed removal of vegetation.
 2. The standards of this chapter shall not be used to deny or reduce the number of lots of a proposed rural land division allowed under applicable zoning density.
- C. The following regulatory alternatives or incentives shall apply in implementing the standards of this chapter:
1. Proposed land divisions involving critical areas may transfer density as follows:
 - a. Rural area land divisions may utilize the cluster provisions of 40.210.020(D).
 - b. Urban area land divisions may utilize density transfer provisions of Section 40.220.010(C)(2).

2. Existing abutting nonconforming lots under common ownership may be reconfigured under the standards of Section 40.210.010(D).
3. Required riparian zone widths on clearing proposals on existing lots may be varied through the use of internal riparian zone averaging. Subject to review under this chapter, for clearing proposals on existing lots, portions of the riparian zone can be reduced up to fifty percent (50%) from the normal standards of this chapter if riparian zone widths are correspondingly increased elsewhere within the applicant parcel, such that the overall size and function and values of the riparian zone are maintained in the parcel.
4. In evaluating forest practice conversion applications under this chapter, the county may allow for modest levels of short-term degradation of habitat function if it is offset by long-term benefits provided by a conservation covenant or other permanent protective measure. Such allowances shall only be made following the recommendation of the Washington Department of Fish and Wildlife.

D. Individual stewardship plans.

1. To encourage educational and voluntary conservation measures, the county shall notify property owners potentially impacted by wildlife habitat area regulations, and shall assist any owners interested in developing individual stewardship plans which will establish parameters and guidelines for future on-site activities in designated habitat areas.
2. The county shall provide information on best management practices and other educational and explanatory materials to property owners. The county shall coordinate with the Washington Department of Fish and Wildlife and other agencies or private groups with expertise in wildlife or land management in the development and distribution of these materials.
3. The county shall work cooperatively with interested property owners to establish and record a notice of stewardship plan. Stewardship plans should at a minimum include the following:
 - a. Mapping of existing structures, roads, driveways and known utilities, and property lines;
 - b. Mapping of existing designated habitat areas, water bodies, known wetlands, vegetation and wildlife types, and yards or cultivated areas;
 - c. Mapping and written description of future activities on the site including time frame;
 - d. Mapping and description of mitigative measures, if any, to be undertaken as part of plan; and
4. Notice of stewardship plans shall be recorded and shall run with the land unless and until a request for revocation or modification has been submitted by the property owner and approved by the county. The county shall approve all such requests unless there are any uncompleted mitigation measures which were agreed to in the stewardship plan as necessary to compensate for clearing of habitat areas undertaken pursuant to the plan.
5. Property owners with approved stewardship plans are exempt from regulation under this chapter for non-development proposals which are consistent with the stewardship plan and do not otherwise require county building, grading, or other review.
6. Stewardship plans shall be approved under criteria in Section 40.440.020(A).
7. Appeals may be filed under the provisions of Chapter 40.510.

E. Non-regulatory implementation measures. As part of the implementation of this chapter and related efforts towards wildlife conservation, the county will undertake the following additional non-regulatory measures:

1. Education and Outreach Measures.
 - a. Notify property owners within critical areas;
 - b. Develop clear and understandable manuals explaining recommended best management practices for typical rural and urban land owner activities;
 - c. Provide seminars and presentations for interested owners and groups;
 - d. Coordinate efforts with existing conservation, stewardship or small resource-user groups with expertise in wildlife or habitat area land management issues;
 - e. Expand local wildlife inventory information through baseline survey of local habitats and species;
 - f. Provide cooperative outreach to individual property owners in critical areas who wish to develop stewardship plans to establish parameters for future activities involving clearing on their property.
2. Incentive Measures.
 - a. Create and/or expand incentives through the current use taxation program;
 - b. Develop and/or expand land acquisition programs.

40.440.030 ADMINISTRATION

- A. Coordination with other permits. Development proposals requiring review under this chapter which involve other county permits shall be reviewed under the timelines of the existing review without additional cost; provided, that application information required under this chapter (Section 40.440.030(C)) is submitted and approval criteria (Section 40.440.020(A)) are addressed.
- B. Non-development proposals. Non-development proposals not involving any other county application development reviews shall be reviewed as a Type I ministerial application under the timelines and procedural standards of Section 40.510.010. Section 40.440.030(C) indicates application information to be submitted.
- C. Submittal information.
 - 1. Proposed nonexempt activities requiring review under this chapter shall submit applications as follows:
 - a. Development applications involving other county review shall submit application materials according to specifications of other reviews involved, and shall also include a completed proposed habitat activity form.
 - b. Non-development applications not involving other county review shall submit a completed proposed habitat activity form.
 - 2. Where required by state law, a completed environmental checklist pursuant to the State Environmental Policy Act (SEPA) shall also be submitted unless categorically exempted by the SEPA rules.
 - 3. The county shall develop and make available proposed habitat activity forms. These forms shall clearly and concisely provide direction to applicants on what information is needed in the following areas:
 - a. Name, address, location, and basic tracking information for the application;
 - b. Existing conditions information, natural and man-made features on the site;
 - c. Description and mapping of proposed activities and how this would change existing conditions on the site.
 - 4. Proposals under this chapter are encouraged but not required to include a report or other assistance from a biologist, botanist, ecologist, or other similarly qualified or trained professional.
 - 5. Persons interested in establishing an individual stewardship plan for future activities as specified in Section 40.440.020(D) should contact the department.
- D. Permit authority and timelines.
 - 1. An approval granted under this chapter shall remain valid until proposed activities are undertaken and completed. An approved permit not acted upon shall be valid for two (2) years, and upon showing of good cause, may be extended for an additional twelve (12) months.
 - 2. Approval for habitat area activities as part of other county development approvals shall be valid for a time period specified by the other permit(s) involved.
 - 3. Approved stewardship plans shall remain valid as specified in Section 40.440.020(D).
- E. Appeals. Appeals of county decisions under this chapter may be filed under the provisions of Chapter 40.510.
- F. Enforcement. At such time as a violation of this chapter has been determined, enforcement action shall be commenced in accordance with the enforcement provisions of Title 32 of this code, and may also include the following:
 - 1. Applications for county land use permits on sites cleared in violation of this standard shall not be processed until three (3) years after the completion of clearing; provided, that the three (3) years may be reduced upon approval and implementation of a restoration or mitigation plan, to include the following:
 - a. A plan for the replanting of trees, brush and groundcover of a type and distribution comparable to that existing prior to clearing; provided, that the responsible official may approve alternative species in order to promote expedient soil stabilization, and may require additional tree planting as mitigation for the loss of mature trees; and
 - b. A monitoring plan to assure at least a ninety percent (90%) survival rate of re-established plantings after three (3) growing seasons; and
 - c. Where fish and wildlife habitat areas are cleared in violation of this chapter, a plan to restore habitat functionality, subject to the review and evaluation of the Washington Department of Fish and Wildlife.

2. In the absence of any mitigation measures approved by the department for sites cleared in violation of this standard, the county may refuse to approve any permit for up to an additional three (3) years.

40.450 WETLAND PROTECTION

40.450.010 INTRODUCTION

A. Purpose.

1. Wetlands constitute important natural resources which provide significant environmental functions including: the control of flood waters, maintenance of summer stream flows, filtration of pollutants, recharge of groundwater, and provision of significant habitat areas for fish and wildlife. Uncontrolled urban-density development in and adjacent to wetlands and designated buffer can eliminate or significantly reduce the ability of wetlands to provide these important functions, thereby detrimentally affecting public health, safety, and general welfare.
2. It is the purpose of this chapter to provide balanced wetland protection measures which:
 - a. Further the goal of no net loss of wetland acreage and functions;
 - b. Encourage restoration and enhancement of degraded and low quality wetlands;
 - c. Provide a greater level of protection for higher-quality wetlands;
 - d. Maintain consistency with federal wetland protective measures;
 - e. Avoid overregulation by limiting regulatory applicability to those development proposals which significantly impact important wetlands; and
 - f. Minimize impacts of wetland regulation on private property rights.

B. Applicability.

1. The provisions of this chapter apply only to the following:
 - a. Proposals requiring one (1) of the following permits or approvals (hereinafter referred to as "triggering applications") for a project on a parcel of real property containing a nonexempt wetland or wetland buffer:
 - (1) Subdivision or short subdivision approval under Chapter 40.540,
 - (2) Site plan approval under Section 40.520.040 involving the construction of new or expanded commercial, industrial, or multifamily structures; provided, that the expansion of preexisting structures shall be exempt so long as the magnitude of wetland or buffer intrusion does not increase, and
 - (3) Grading permits under Chapter 14.04 for real property, except that grading for construction of a single-family/duplex dwelling or accessory structure where no reasonable upland alternative exists is exempt;
2. Regulated activity in a Category 1, 2, or 3 wetland or its buffer. Regulated activities include the following activities occurring within a wetland or its buffer:
 - a. The removal, excavation, grading, dredging, dumping, discharging, or filling of any material in excess of fifty (50) cubic yards or impacting more than one (1) acre of wetland or buffer, except where undertaken for maintenance (but not construction) of drainage ditches or for emergency utility repair;
 - b. The construction of a structure; provided, that this subsection shall not apply to the reconstruction of damaged or destroyed structures or the construction or expansion of a residential structure or accessory residential structure on a lawfully established preexisting lot. Residential construction proposed within Category 1, 2, or 3 wetlands shall not be exempted if reasonable upland alternative on-site locations exist;
 - c. The construction of stormwater facilities; or
 - d. The destruction or alteration of wetlands vegetation through clearing, harvesting, intentional burning, or planting of vegetation that would alter the character of a wetland or buffer; provided, that this subsection shall not apply to the following activities undertaken in a manner which minimizes impacts:
 - (1) The harvesting or normal maintenance of vegetation in a manner that is not injurious to the natural reproduction of such vegetation,
 - (2) The removal or eradication of noxious weeds so designated in Title 7 of this code or other exotic nuisance plants including non-native blackberries,
 - (3) Site investigative work necessary for land use application submittals such as surveys, soil logs, and percolation tests,
 - (4) The construction of trails which shall be pervious or elevated when located within wetlands,

- (5) Emergency fire or utility repair,
 - (6) Activities of the mosquito control district,
 - (7) Clearing of more than six (6) dead trees or snags per ten (10) acres within any thirty-six (36) month period in any critical area shall require a permit unless such removal is recommended or required in writing by the Washington Department of Labor and Industries, Washington Department of Fish and Wildlife, or the Clark County extension agent, or other authorized agency, or
 - e. Clearing authorized by an approved forest practice permit that is not permitted as a Class IV G or other conversion to a non-forestry use.
 - 3. The standard provisions of Section 40.450.030 apply to all triggering applications listed in subsection (1) of this section.
 - 4. The wetland permit provisions of Section 40.450.040 apply if:
 - a. The triggering application proposes a regulated activity within a nonexempt wetland or its buffer; or
 - b. A regulated activity is proposed within a wetland or buffer subject to a conservation covenant entered into pursuant to Section 40.450.030(E)(4); or
 - c. A regulated activity is proposed within a Category 1, 2, or 3 wetland or its buffer.
 - 5. Wetlands exempted from this chapter are listed in Section 40.450.010(C).
 - 6. For the purposes of this chapter, "streams" mean those areas where surface waters produce a defined channel or bed at least two (2) feet in width between the ordinary high water marks excluding streams and lakes regulated under the state Shorelines Management Act.
- C. Exempted wetlands. This chapter shall not apply to the following wetlands:
- 1. Small. Category 2 and 3 wetlands less than two thousand five hundred (2,500) square feet in area and Category 4 wetlands less than ten thousand (10,000) square feet in area;
 - 2. Artificial. Wetlands created from non-wetland sites including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, stormwater facilities, farm ponds, and landscape amenities; provided, that wetlands created as mitigation shall not be exempted;
 - 3. Prior Converted Cropland. Wetlands recognized by the U. S. Army Corps of Engineers as prior converted cropland under its Regulatory Guidance Letter 90-7 to the extent consistent with such Corps recognition. Wetlands meeting the Corps' definition of prior converted cropland, but exempt from federal regulation due to their small size (less than one (1) acre), shall be recognized by the responsible official as prior converted crop lands utilizing the definitions, standards and limitations of Guidance Letter 90-7;
 - 4. Riparian. Wetlands less than five (5) feet wide above the ordinary high water mark along streams and lakes which are regulated under the State Shorelines Management Act or under Chapter 40.440;
 - 5. Marginal. Category 5 wetlands.
- D. Interpretation.
- 1. Except where a contrary intent clearly appears, the provisions of this chapter shall be construed to the maximum feasible extent consistent with the Federal Clean Water Act, 33 U.S.C. Section 1251 et seq., and the rules and guidelines promulgated pursuant thereto.
 - 2. Nothing in this chapter shall be construed to preclude application of the State Environmental Policy Act in approving applications not listed in Section 40.450.010(B).

40.450.020 RATING SYSTEMS

- A. General.
- 1. The wetland rating system is used in part to determine base buffer widths pursuant to Section 40.450.030(E)(2). The base buffer width is then adjusted based on the buffer type. The wetland and buffer rating systems are also used for mitigation and enhancement options under Section 40.450.040, Wetland Permits.
 - 2. The determination of the specific category of wetland and buffer type for each wetland shall be the responsibility of the department.

3. A single wetland shall be classified into more than one (1) category if distinct areas exist in the wetland which clearly meet the description of separate categories. Buffers shall also be classified into more than one (1) type when distinct areas exist in the buffer which clearly meet the description for separate types.
 4. Wetlands which are improved and now meet the criteria for a higher category are classified according to the characteristics of the original wetland.
- B. Wetland rating system. The rating system contains a general description of each wetland category followed by specific criteria. If the specific criteria conflicts with the general description, the responsible official shall determine the most appropriate classification as applied to a particular site.
1. Category 1 Wetlands. These are the highest quality and rarest of the wetlands in the county. Because of their rarity and the unique functions they provide, the risk of degradation to these wetlands must be minimized. Their characteristics include: very valuable for a rare species, a high quality example of a rare wetland type, irreplaceable wetland functions, or impossible to replace within a human lifetime, if at all. These wetlands meet one of the following criteria:
 - a. Wetlands verified by a state or federal resource management agency as habitat for species recognized to be endangered or threatened by the U.S. Fish and Wildlife Service, NOAA Fisheries, Washington Department of Fish and Wildlife, or Washington Department of Natural Resources; or
 - b. Sphagnum bogs and fens and forested wetlands where the majority of canopy coverage consists of mature trees eighty (80) years or older for softwoods and fifty (50) years or older for hardwoods; or
 - c. Wetlands greater than seven and one-half (7.5) contiguous acres in size and having three (3) or more wetland subclasses one (1) of which is open water; or
 - d. Wetlands connected to another habitat area, either upland or aquatic, via a stream or one hundred (100) foot wide vegetated corridor, or surrounded by a minimum of a one hundred- (100) foot wide vegetated upland and possessing significant habitat value and diversity as demonstrated by the following characteristics:
 - (1) A proportion of open water to vegetative cover in dispersed patches where the open water is no greater than sixty percent (60%), and no less than forty percent (40%) of the total wetland area during a majority of a normal water year, and
 - (2) At least three (3) wetland subclasses, and
 - (3) At least two (2) types of special habitat features which are:
 - (a) Salmonid rearing areas as demonstrated by the presence of juvenile salmonids,
 - (b) Snags or trees with dead and dying tops,
 - (c) Rocky outcroppings or islands, and
 - (d) Large downed woody debris.
 2. Category 2 Wetlands. These wetlands occur more commonly than Category 1 wetlands but still need a high level of protection. Their characteristics include: habitat for very sensitive or important wildlife or plants, difficult to replace, or extensive wildlife habitat. This category also includes streams or sections of streams with demonstrated spawning habitat for anadromous fish (e.g., salmon and steelhead). These wetlands meet one of the following criteria:
 - a. Wetlands verified by a state or federal resource management agency as habitat for sensitive species, extirpated plant species, or species of concern by the U. S. Fish and Wildlife Service, NOAA Fisheries, Washington Department of Fish and Wildlife, or Washington Department of Natural Resources; or
 - b. Forested wetlands outside the urban area which are one (1) acre or greater in size; or
 - c. Wetlands where a heron rookery of at least five (5) nests is present; or
 - d. Wetlands contiguous with demonstrated spawning habitat for anadromous fish; or
 - e. Sections of streams having demonstrated spawning habitat for anadromous fish; or
 - f. Wetlands greater than ten (10) contiguous acres in size which have two (2) or more wetland classes one of which is open water; or
 - g. Wetlands greater than five (5) contiguous acres in size which have two (2) or more wetland subclasses and open water; or
 - h. Wetlands connected to another habitat area, either upland or aquatic, via a stream or one hundred (100) foot wide vegetated corridor, or surrounded by a minimum of a one hundred- (100) foot wide vegetated upland and possessing significant habitat value and diversity as demonstrated by the following characteristics:

- (1) A proportion of open water to vegetative cover in dispersed patches where the open water is no greater than sixty percent (60%) and no less than forty percent (40%) percent of the total wetland area during a majority of a normal water year, and
 - (2) At least two wetland subclasses, and
 - (3) At least one of the following special habitat features:
 - (a) Salmonid rearing areas as demonstrated by the presence of juvenile salmonids,
 - (b) Snags or trees with dead and dying tops,
 - (c) Rocky outcroppings or islands, and
 - (d) Large downed woody debris.
 3. Category 3 Wetlands. These wetlands occur more commonly than Category 1 or 2 and provide important functions such as water quality improvement, flood control, groundwater recharge, or fish and wildlife habitat. They are important for a variety of wildlife species. They are generally difficult to replace and need a moderate level of protection. This category also includes intermittent streams utilized by salmonids (e.g., trout) and all year-around streams. These wetlands meet one of the following criteria:
 - a. Wetlands that serve as headwaters of streams and provide either an average annual flow of at least five (5) cubic feet per second or at least twenty percent (20%) of the average annual flow of a stream; or
 - b. Streams, both intermittent and year-around, utilized by salmonids; or
 - c. Year-around streams, not utilized by salmonids; or
 - d. Forested wetlands within the urban area.
 4. Category 4 Wetlands. These wetlands are smaller, isolated, and less diverse vegetatively. It is possible to replace these wetlands and even improve them from a habitat standpoint. Category 4 wetlands do provide important functions and losses must be mitigated. Intermittent streams not utilized by salmonids are also included in this category. These wetlands meet one of the following criteria:
 - a. Those portions of wetlands altered by prior legal use or activity which, if left alone, would revert to wetlands providing significant wetland functions;
 - b. Wetlands that are the result of regulated man-made drainage facilities that were constructed in natural wetland areas, except artificial wetlands created as mitigation; or
 - c. Intermittent streams not utilized by salmonids.
 5. Category 5 Wetlands (Exempted). These are marginal wetlands which provide limited functions in terms of water quality and fish and wildlife habitat. They provide minimal, if any, water quality improvement and the wildlife habitat they provide is undifferentiated from non-wetland areas within 100 feet. These wetlands meet one (1) of the following criteria:
 - a. Isolated wetlands that have only one wetland class and a predominance (ninety percent (90%) or more) of exotic species; or
 - b. Wetlands altered by prior legal use or activity which, if left alone, would not revert to wetlands or provide significant wetland functions.
- C. Buffer rating system.
1. Type A Buffer Criteria.
 - a. A non-forested area consisting of a mature, unimpacted, naturally occurring native plant community; or
 - b. A forested buffer consisting of mature, native vegetation which displays diversity and possesses all the following characteristics:
 - (1) Multi-canopied plant environment,
 - (2) A tree canopy with trees greater than twenty (20) feet tall covering seventy-five percent (75%) of the area,
 - (3) Three (3) or more species of native trees,
 - (4) Three (3) or more species of native shrubs,
 - (5) Predominance of native plant species,
 - (6) Ground surface thoroughly covered with native plant ground covers or a buildup of natural organic debris;
 2. Type B Buffer Criteria. These areas are immature versions of Type A buffers which are expected to mature into Type A buffers and meet all the criteria for Type A buffers within five (5) years. If areas are designed and planted to be this type buffer, then all the following criteria must be met:
 - a. New plantings consist exclusively of native plant species,

- b. Shrubs shall be of sufficient size and quantity to provide a multi-layered canopy of shrubs within five (5) years,
 - c. Trees shall be planted at a density of five (5) per one thousand (1,000) square feet and be of sufficient size to yield a Type A buffer in ten (10) years;
- 3. Type C Buffer Criteria. Buffers that do not meet the criteria outlined for Type A, B, or D;
- 4. Type D Buffer Criteria.
 - a. Areas with monotypic or no vegetation, or
 - b. Areas with a predominance of exotic species.

40.450.030 STANDARDS

- A. General. The standards apply whenever an application is submitted for one of the triggering applications listed in subsection (1) of Section 40.450.010(B) for a project on a parcel of real property containing a nonexempt (see Section 40.450.010(C)) wetland or wetland buffer; provided, that triggering grading permits shall not be subject to Section 40.450.030(E)(4). The standard provisions shall be implemented in conjunction with the processing of the triggering application.
 - 1. For the purpose of computing the processing limitation period applicable to a triggering application only, the application shall not be deemed fully complete until completion (if required) of the wetland determination pursuant to Section 40.450.030(C), the wetland delineation pursuant to Section 40.450.030(D), and the buffer designation pursuant to Section 40.450.030(E)(1). This subsection shall not be construed in any way to delay vesting under Washington law.
 - 2. In addition to any notice otherwise required by law for the triggering application, the department shall notify and solicit comments from state and federal agencies having jurisdiction over or an interest in the subject wetlands or buffers. Notice of grading permit applications subject to subsection (1) of Section 40.450.010(B) shall be given in the same manner as short plat applications.
 - 3. If a public hearing is held on the triggering application, such hearing will be open to consideration of wetland issues under this chapter. If the only triggering application applicable to a proposal is for a grading permit, a public hearing shall be held by the hearings examiner pursuant to the provisions of Chapter 2.51 if requested in writing by at least twenty (20) or more persons residing within the county within twenty (20) days of the notice provided for in subsection (A)(2) of this section.
 - 4. Administrative appeals of determinations made under Section 40.450.030 must be filed in conjunction with, and within the limitation period applicable to, an available administrative appeal of the triggering application; -provided, that an aggrieved party may appeal preliminary decisions deciding an exemption, determining or delineating a wetland, determining a buffer, or otherwise finally applying the provisions of this chapter in the same manner, and within the limitation period applicable to, appeals from responsible official decisions under Chapter 40.510.
- B. Pre-determination. Prior to submittal of a triggering application, a person may request from the responsible official a written pre-determination of whether wetlands exist on any parcel less than forty (40) acres. The pre-determination shall be binding on the responsible official for a period of three (3) years; provided, that such pre-determination shall be subject to administrative appeal upon its application in conjunction with a triggering application. The fee for a predetermination is contained in Chapter 6.110.
- C. Wetland determination. In conjunction with the submittal of a triggering application, the responsible official shall determine the probable existence of a wetland on the parcel involved in the triggering application. If wetlands or wetland buffers are found to exist on a parcel, a wetland delineation is required.
- D. Wetland delineation.
 - 1. Methodology. The location of a wetland and its boundary shall be determined through the performance of a field investigation utilizing the methodology contained in the Wetlands Delineation Manual. If a wetland is located off-site and is inaccessible, the best available information shall be used to determine the wetland boundary and category.
 - 2. Information Requirements. Wetland boundaries shall be staked and flagged in the field and a delineation report shall be submitted to the department. The report shall include the following information:
 - a. USGS quadrangle map with site clearly defined;

- b. Topographic map of area;
 - c. National wetland inventory map showing site;
 - d. Soil Conservation Service soils map showing site;
 - e. Site map, at a scale no smaller than one inch equals one hundred feet (1" = 100'), if practical, showing the following information:
 - (1) Wetland boundaries,
 - (2) Sample sites and sample transects,
 - (3) Boundaries of forested areas,
 - (4) Boundaries of wetland classes if multiple classes exist;
 - f. Discussion of methods and results with special emphasis on technique used from the Wetlands Delineation Manual;
 - g. Acreage of each wetland on the site based on the survey if the acreage will impact the buffer size determination or the project design;
 - h. All completed field data sheets (U.S. Army Corps of Engineers' format for three parameter application) numbered to correspond to each sample site.
3. Responsibility. The wetland delineation is the responsibility of the applicant. The responsible official shall verify the accuracy of the boundary delineation within ten (10) working days of receiving the delineation report. This review period may be extended when excessively dry conditions prohibit the confirmation of the wetland delineation. If the delineation is found to not accurately reflect the boundary of the wetland, the responsible official will issue a report, within twenty (20) working days of receiving the applicant's delineation report, citing evidence (for example, soil samples) that demonstrates where the delineation is in error. The applicant may then either revise the delineation and submit another report or administratively appeal.
- E. Buffers. Wetland buffer widths shall be determined by the responsible official in accordance with the rating system contained in Section 40.450.020 and the standards below.
- 1. All buffers shall be measured perpendicularly outward from the delineated wetland boundary or, in the case of a stream with no adjacent wetlands, the ordinary high water mark as surveyed in the field.
 - 2. Base buffer width.
 - a. Category 1 wetland: three hundred (300) feet;
 - b. Category 2 wetland: two hundred (200) feet;
 - c. Category 3 wetland: one hundred (100) feet;
 - d. Category 4 wetland: fifty (50) feet.
 - 3. Adjusted base buffer width.
 - a. Reduced Width Based on Buffer Quality. The required buffer width shall be decreased based on the quality of the existing buffer. The percentage of decrease from the base buffer width is:
 - (1) Type A buffer: forty percent (40%);
 - (2) Type B buffer: thirty percent (30%);
 - (3) Type C buffer: fifteen percent (15%);
 - (4) Type D buffer: zero percent (0%).
 - b. Adjustments Authorized by Wetland Permits. Further adjustments to the required buffer width are authorized by Section 40.450.040(D) upon issuance of a wetland permit.
 - c. Functionally Isolated Buffer Areas. Areas which are functionally separated from a wetland and do not protect the wetland from adverse impacts due to preexisting roads, structures, or vertical separation, shall be excluded from buffers otherwise required by this chapter.
 - d. Maximum Buffer Area. Except for streams, buffers shall be reduced as necessary so that total buffer area (on- and off-site) does not exceed two (2) times the total wetland area (on- and off-site); provided, the minimum buffer width at any point shall not be less than fifty percent (50%) of the base buffer widths contained in subsection (E)(2) of this section.
 - e. Rural Buffer Areas. Subject to subsection (E)(3)(c) of this section, the required buffer widths for subdivisions and short subdivisions located in rural areas shall be fifty percent (50%) of the base buffer width contained in subsection (E)(2) of this section.
 - 4. Standard requirements. Any action granting or approving a triggering application shall be conditioned on all the following:

- a. **Marking Buffer During Construction.** The location of the outer extent of the wetland buffer shall be marked in the field and such markings shall be maintained throughout the duration of the permit.
- b. **Permanent Marking of Buffer Area.** A permanent physical demarcation along the upland boundary of the wetland buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedge row, fencing, or other prominent physical marking approved by the responsible official. In addition, small signs shall be posted at an interval of one (1) per lot or every one hundred (100) feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the wetland buffer approved by the responsible official worded substantially as follows:

Wetland & Buffer --
Please retain in a natural state

- c. A conservation covenant shall be recorded in a form approved by the Prosecuting Attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a wetland permit prior to engaging in regulated activities within a wetland or its buffer.
 - d. In the cases of plats, short plats, and recorded site plans, include on the face of such instrument the boundary of the wetland and its buffer and a reference to the separately recorded conservation covenant provided for in subsection (E)(4)(c) of this section.
- F. **Standard requirements--Rural subdivision waivers.** The responsible official shall waive the requirements of subsections 40.350.030(A) through (E) for any subdivision or short subdivision located in a rural area if the applicant designates development envelopes to be shown on the final plat which are outside of any wetland or buffer. The responsible official may require partial wetland delineation to the extent necessary to ensure eligibility for this waiver.

40.450.040 WETLAND PERMITS

A. General.

1. A wetland permit is required if a triggering application proposes a regulated activity (see Section 40.450.010(B)) within a nonexempt wetland (see Section 40.450.010(C)) or its buffer, if a regulated activity is subsequently proposed within a wetland or buffer which is subject to a conservation covenant recorded pursuant to Section 40.450.030(E)(4), or if a regulated activity is proposed within a Category 1, 2, or 3 wetland or its buffer.
2. Standards for wetland permits are provided in Sections 40.450.040(B), (C) and (D).
3. All wetland permits require approval of a preliminary and final enhancement/mitigation plan in accordance with the provisions of Section 40.450.040(E) unless the preliminary enhancement/mitigation plan requirement is waived under the provisions of subsection (2) of Section 40.450.040(E).
4. Wetland permit application, processing, preliminary approval, and final approval procedures are set out in Sections 40.450.040(F) through (I).
5. Wetland permit variance criteria are contained in Section 40.450.040(J).
6. Provisions for emergency wetland permits are provided by Section 40.450.040(K).

B. Standards--General. Wetland permit applications shall be based upon an enhancement/mitigation plan and shall satisfy the following general requirements:

1. The proposed activity shall not cause significant degradation of hydroperiod, flows, groundwater or surface-water quality, or fish and wildlife habitat;
2. The proposed activity shall comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, stormwater management, and on-site wastewater disposal;
3. Wetland and wetland buffer impacts shall be minimized.
"Minimizing impacts to wetlands or buffers" means:
 - a. Using appropriate and best available technology;
 - b. Taking affirmative steps to avoid or reduce impacts;
 - c. Sensitive site design and siting of facilities and construction staging areas away from regulated wetlands and their buffers;

- d. Providing protective measures such as siltation curtains, hay bales and other siltation prevention measures, scheduling the regulated activity to avoid interference with wildlife and fisheries rearing, resting, nesting or spawning activities; and
 - e. Not jeopardizing the continued existence of endangered, threatened, rare, sensitive, or monitor species as listed by the federal government or the state of Washington.
- C. Standards--Buffer activities. The following additional standards apply for regulated activities in a wetland buffer:
- 1. Maximum Buffer Reduction. In the case of buffer averaging and buffer reduction via enhancement, the minimum buffer width at any point shall not be less than fifty percent (50%) of the base buffer widths contained in Section 40.450.030(E)(2);
 - 2. Buffer Averaging. The boundary of the buffer zone may be modified by averaging buffer widths. If buffer averaging is used, the following conditions must be met:
 - a. The total area contained in the buffer after averaging shall be no less than that contained within the buffer prior to averaging, and
 - b. Averaging will not degrade the functions of the wetland or buffer;
 - 3. Buffer Reduction via Enhancement. Buffers less than the adjusted base width designated pursuant to Section 40.450.030(E)(3) will be allowed if the following enhancement/mitigation measures are undertaken:
 - a. Buffer Enhancement. Improving the quality of the buffer such that the buffer meets the criteria for a higher category decreases the base width by the following amounts:
 - (1) Raising buffer from Type D to C or C to B: fifteen percent (15%),
 - (2) Raising buffer from Type D to B: twenty-five percent (25%),
 - b. Shielding High Intensity Uses. Shielding the wetland and buffer from adjacent high intensity uses shall result in a decrease in such adjusted base buffer width of ten percent (10%). Shielding includes, but is not limited to, berms and permanent solid fences. For commercial and industrial uses, shielding also includes orienting the building so the building itself acts as a shield to the buffer and wetland,
 - c. Hydrologic Improvement to Wetland. Permanent improvements to the hydrology of a wetland ecosystem, such as removing a ditch that is draining a wetland, shall result in a decrease in the base buffer width of ten percent (10%),
 - d. Fish and Wildlife Enhancement. Substantial improvements to the fish and wildlife habitat of a wetland or buffer, such as importing snags or meandering a channelized stream, shall result in a decrease in the base width of ten percent (10%),
 - e. Wetland Enhancement. Improving a wetland by raising it to a higher category decreases the base width by twenty percent (20%). The base buffer width in this case is that required for the original wetland;
 - 4. Stormwater Facilities. Stormwater facilities are only allowed in Type C and D buffers, provided the facilities will not degrade the buffer and are designed to blend with the natural landscape. Unless determined otherwise by the responsible official, the following activities shall be considered to degrade a wetland buffer when they are associated with the construction of a stormwater facility:
 - a. A reduction in buffer type,
 - b. Removal of trees greater than four (4) inches diameter at four and one-half (4 1/2) feet above the ground or greater than twenty (20) feet in height,
 - c. Disturbance of plant species that are listed as rare, threatened or endangered by the county or any state or federal management agency,
 - d. The construction of concrete structures other than manholes, inlets, and outlets that are exposed above the normal water surface elevation of the facility,
 - e. The construction of maintenance and access roads,
 - f. Slope grading steeper than four to one (4:1) horizontal to vertical above the normal water surface elevation of the stormwater facility,
 - g. The construction of pre-treatment facilities such as forbays, sediment traps, and pollution control manholes,
 - h. The construction of trench drain collection and conveyance facilities,
 - i. The placement of fencing, and

- j. The placement of rock and/or riprap, except for the construction of flow spreaders, or the protection of pipe outfalls and overflow spillways, provided that buffer functions for areas covered in rock and/or riprap are replaced;
 - 5. Road and Utility Crossings. Crossing buffers with new roads and utilities is allowed provided all the following conditions are met:
 - a. Buffer functions, as they pertain to protection of the adjacent wetland and its functions, are replaced,
 - b. Impacts to the buffer and wetland are minimized;
 - 6. Other Activities in a Buffer. Regulated activities not involving stormwater management, road and utility crossings, or a buffer reduction via enhancement are allowed in the buffer if all the following conditions are met:
 - a. The activity is temporary and will cease or be completed within three (3) months of the date the activity begins,
 - b. The activity will not result in a permanent structure in or under the buffer,
 - c. The activity will not result in a reduction of buffer acreage, type, or functions,
 - d. The activity will not result in a reduction of wetland acreage, classification, or functions.
- D. Standards – Wetland activities. The following additional standards apply for regulated activities in a wetland:
- 1. Avoidance. Unless either a variance is approved pursuant to Section 40.450.040(J) or the proposed activity would result in an overall net gain in applicable wetland functions with no decrease in wetland acreage, wetland permits shall not be issued for the following:
 - a. Activities within wetlands meeting the criteria of subsections (1)(a) or (1)(b) or (2)(c) or (2)(e) or (3)(a) of Section 40.450.020(B);
 - b. Activities within wetlands meeting the criteria of subsections (1)(c) or (1)(d) or (2)(a) or (2)(b) or (2)(d) or (2)(f) or (2)(g) or (2)(h) or (3)(c) or (3)(d) of Section 40.450.020(B) unless such activities both meet the general standards of Section 40.450.040(B) and are either for:
 - (1) Utility or public road and trail uses, or
 - (2) Water dependent uses.
 - 2. Wetland Replacement.
 - a. Replacement wetlands shall be located in the same watershed as impacted wetlands;
 - b. Unenhanced Concurrent Replacement. The following ratios apply when a wetland is replaced with the same category of wetland and the replacement is accomplished within one (1) year of the wetland impact:

Category 1	6:1
Category 2	3:1
Category 3 (Forested)	3:1
Category 3 (Scrub-shrub)	2:1
Category 3 (Emergent)	1.5:1
Category 4	1.25:1

- c. Unenhanced Pre-Development Replacement. The following ratios apply when a replacement wetland of the same category is created prior to impact to an existing wetland. The replacement wetland must meet the criteria for the appropriate wetland category and provide equal or superior wetland functions for at least one (1) complete growing season:

Category 1	1.5:1
Category 2	1.25:1
Category 3 and 4	1:1

- d. Enhanced Replacement. Replacing or enhancing a Category 3 or 4 wetland such that the new wetland is of higher quality and meets the criteria for a higher category, will result in a reduced replacement ratio. The replacement will be based on a one to one (1:1) replacement ratio which is reduced by twenty percent (20%) for each increase in wetland category. Thus replacing a Category 4 wetland with a Category 2 wetland results in a replacement ratio of six-tenths to one (0.6:1). In other words, six (6) acres of newly created Category 2 wetland can replace ten (10) acres of Category 4 wetland.

3. Wetland Banking.
 - a. Construction, enhancement or restoration of wetlands to use as mitigation for future wetland development impacts in the same watershed is permitted subject to the following:
 - (1) A wetland permit shall be obtained prior to any mitigation banking. If a wetland permit is not obtained prior to mitigation bank construction, mitigation credit will not be awarded. On projects proposing off-site wetland banking in addition to required wetland mitigation, a separate wetland permit will be required for each activity. The performance and maintenance bond requirements of subsections (3)(c) and (d) of Section 40.450.040(H) shall not be applicable, provided there are no requests for mitigation credit prior to the county determining the mitigation banking is successful. If mitigation banking is not fully functioning, as defined in the wetland permit, at the time mitigation credit is requested, subsections (3)(c) and (d) of Section 40.450.040(H) shall apply,
 - (2) Federal and state wetland regulations, if applicable, may supersede county requirements;
 - b. The mitigation credit allowed will be determined by the county, based on the wetland category, condition and mitigation ratios as specified in subsection (2) of this section. Prior to granting mitigation banking credit, all wetland mitigation banking areas must comply with subsections (b) and (c) of Section 40.450.030(E)(4), and if applicable subsection (3) of Section 40.450.040(H);
 - c. On projects proposing off-site wetland banking in addition to required wetland mitigation, a separate permit fee will be required for each activity;
 - d. Purchase of banked wetland credits is permitted to mitigate for wetland impacts in the same watershed provided the applicant has minimized wetland impacts, where reasonably possible, and the following requirements are met:
 - (1) Documentation, in a form approved by the Prosecuting Attorney, adequate to verify the transfer of wetland credit shall be submitted, and
 - (2) A plat note along with information on the title shall be recorded in a form approved by the Prosecuting Attorney as adequate to give notice of the requirements of this section being met by the purchase of banked wetland credits.
 4. Special Area Management Plans. (RESERVED).
 5. Stormwater Facilities. Stormwater facilities may be constructed in Category 4 wetlands, provided that the responsible official determines that wetland functions will not be degraded as a result of the facility; and provided further that stormwater runoff is treated for water quality in accordance with the requirements of Chapter 40.380 prior to discharge into the wetland.
 6. Utility Crossings. Crossing wetlands by utilities is allowed, provided the activity is not prohibited by subsection (1) of Section 40.450.040(D), and provided all the following conditions are met:
 - a. The activity does not result in a decrease in wetland acreage or classification;
 - b. The activity results in no more than a short-term six (6) month decrease in wetland functions;
 - c. Impacts to the wetland are minimized.
 7. Other Activities in a Wetland. Regulated activities not involving stormwater management, utility crossings, or wetland replacement are allowed in a wetland, provided the activity is not prohibited by subsection (1) of Section 40.450.040(D), Avoidance, and provided all the following conditions are met:
 - a. The activity will not result in a reduction of wetland acreage, classification or functions;
 - b. The activity is temporary and will cease or be completed within three (3) months of the date the activity begins.
- E. Enhancement/mitigation plans.
1. General. Enhancement/mitigation plans are required for activities in a buffer or wetland. Content requirements which are inappropriate and inapplicable to a project may be waived by the responsible official upon request of the applicant at or subsequent to the pre-application consultation provided for in subsection (1) of Section 40.450.040(F).
 2. Preliminary Plan. The purpose of the preliminary plan is to determine the feasibility of the project before extensive resources are devoted to the project. The responsible official may waive the requirement for a preliminary enhancement/mitigation plan when a wetland permit is triggered by a grading permit on real property in the rural area or required without a triggering application (see Section 40.450.010(B)). The preliminary enhancement/mitigation plan consists of two (2) parts: baseline information for the site and a conceptual plan. If a replacement wetland is proposed, baseline information for both the original and proposed wetland sites is required.

- a. Baseline information shall include:
 - (1) Wetland delineation report as described in subsection (2) of Section 40.450.030(D);
 - (2) Description and maps of vegetative conditions at the site;
 - (3) Description and maps of hydrological conditions at the site;
 - (4) Description of soil conditions at the site based on a preliminary on-site analysis;
 - (5) A topographic map of the site; and
 - (6) An assessment of the functional uses of the existing wetland and buffer.
- b. The contents of the conceptual plan shall include:
 - (1) Goals and objectives of the proposed project;
 - (2) Description of wetland type to be created;
 - (3) Map showing proposed wetland and buffer. This map should include the base buffer and the proposed buffer;
 - (4) Site plan;
 - (5) Discussion and map of plant material to be planted and planting densities;
 - (6) Preliminary drainage plan identifying location of proposed drainage facilities including detention structures and water quality features (e.g., swales);
 - (7) Discussion of water sources for the wetland;
 - (8) Project schedule;
 - (9) Discussion of how the completed project will be managed and monitored; and
 - (10) A discussion of contingency plans in case the project does not meet the goals initially set for the project.
3. Final Plan. The contents of the final enhancement/mitigation plan shall include:
 - a. Preliminary enhancement/mitigation plan and all conditions imposed on that plan. If the preliminary enhancement/mitigation plan requirement is waived, the final plan shall include the content normally required for the preliminary plan listed in this section under subsections (E)(2)(a), (E)(2)(b)(1), and (E)(2)(b)(2);
 - b. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and objectives of the enhancement/mitigation project are being met. Such criteria may include water quality standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or other ecological, geological or hydrological criteria;
 - c. Detailed Construction Plans. Written specifications for the enhancement/mitigation project shall be provided. The specifications shall include: the proposed construction sequence, grading and excavation details, water and nutrient requirements for planting, specification of substrate stockpiling techniques, and planting instructions, as appropriate. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome;
 - d. Monitoring Program. Description of a detailed program for monitoring the success of the enhancement/mitigation project. Monitoring may include, but is not limited to:
 - (1) Establishing vegetation plots to track changes in plant species composition and density over time;
 - (2) Using photo stations to evaluate vegetation community response;
 - (3) Sampling surface and subsurface waters to determine pollutant loading, and changes from the natural variability of background conditions (pH, nutrients, heavy metals);
 - (4) Measuring base flow rates and storm water runoff to model and evaluate water quality predictions, if appropriate;
 - (5) Measuring sedimentation rates, if applicable; and
 - (6) Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity. A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are tracking the progress of the project. A monitoring report shall be submitted annually, at a minimum, documenting milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.
 - e. Associated Plans and Other Permits.
 - (1) Final landscaping plan;
 - (2) Final drainage plan; and/or

- (3) Final erosion and sediment control plan.
 - f. Evidence of Financial and Scientific Proficiency. A description of how the enhancement/mitigation project will be managed during construction and the scientific capability of the designer to successfully implement the proposed project. In addition, a demonstration of the financial capability of the applicant to successfully complete the project and ensure it functions properly over a five (5) year period. Evidence that required bonding can be obtained.
 - g. Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when monitoring or evaluation indicates project performance standards are not being met.
- F. Wetland permit – Application.
 - 1. Pre-Permit Consultation. Any person intending to apply for a wetland permit is encouraged, but not required, to meet with the department during the earliest possible stages of project planning in order to discuss wetland impact avoidance, minimization, compensation, and the required contents of an enhancement/mitigation plan before large commitments have been made to a particular project design. Effort put into pre-application consultations and planning will help applicants create projects which will be more quickly and easily processed.
 - 2. Applications. Applications for wetland permits shall be made to the department on forms furnished by the department. Unless the responsible official waives one (1) or more of the following information requirements, applications shall include:
 - a. Wetland delineations and adjusted standard buffer width designations pursuant to Sections 40.450.020 and 40.450.030;
 - b. A site plan for the proposed activity overlaid on an aerial photograph at a scale no smaller than one inch equals four hundred feet (1" = 400') showing the location, width, depth and length of all existing and proposed structures, roads, stormwater facilities, sewage treatment, and installations within the wetland and its buffer;
 - c. The exact sites and specifications for all regulated activities including the amounts and methods;
 - d. A proposed preliminary enhancement/mitigation plan meeting the requirements of Section 40.450.040(E). If the preliminary plan requirement has been waived, a final enhancement/mitigation plan shall be required in its place.
 - 3. Fees. At the time of application, the applicant shall pay a filing fee pursuant to Chapter 6.110.
 - 4. Completeness. No later than ten (10) working days after receipt of the permit application the department shall notify the applicant as to the completeness of the application. An application shall not be deemed complete until and unless all information necessary to evaluate the proposed activity, its impacts, and its compliance with the provisions of this chapter have been provided to the satisfaction of the department. Such determination of completeness shall not be construed as an approval or denial of the permit application.
- G. Wetland permit--Processing.
 - 1. Consolidation. The department shall, to the extent practicable and feasible, consolidate the processing of wetland permits with other county regulatory programs which affect activities in wetlands, such as subdivision, grading, floodplain and site plan approval, so as to provide a timely and coordinated permit process. Where no other county permit or approval is required for the wetland activity, the wetland permit shall be processed in accordance with the notice, decision and appeal procedures applicable to a Type II process under Section 40.510.020.
 - 2. Notification. In addition to notices otherwise required pursuant to subsection (G)(1) of this section, notice of a wetland permit application shall be given to federal and state agencies that have jurisdiction over or an interest in the subject wetlands.
- H. Wetland permit--Preliminary approval.
 - 1. Decision Maker. A wetland permit application which has been consolidated with another permit or approval request which requires a public hearing (e.g., preliminary plat) shall be heard and decided in accordance with the procedures applicable to such other request. Any other wetland permit application shall be acted on by the responsible official within ninety (90) days following submittal of a fully complete application; provided, that such limitation period may be extended with the consent of the applicant. If a decision must be made and there is insufficient information, a denial will be issued.

2. Findings. A decision preliminarily approving or denying a wetland permit shall be supported by findings of fact relating to the standards and requirements of this chapter.
3. Conditions. A decision preliminarily approving a wetland permit shall incorporate at least the following as conditions:
 - a. The approved preliminary enhancement/ mitigation plan;
 - b. Applicable conditions provided for in Section 40.450.030(E)(4);
 - c. Posting of a cash performance bond or other security acceptable to the responsible official in an amount and with surety and conditions sufficient to fulfill the requirements of Section 40.450.040(E) and, in addition, to secure compliance with other conditions and limitations set forth in the permit. The responsible official shall release the bond upon determining that:
 - (1) All activities, including any required compensatory mitigation, have been completed in accordance with the terms and conditions of the permit and the requirements of this chapter, and
 - (2) Upon the posting by the applicant of a maintenance bond, if applicable;
 - d. Posting of a cash maintenance bond or other security acceptable to the responsible official in an amount and with surety and conditions sufficient to guarantee that structures, improvements, and mitigation required by the permit or by this chapter perform satisfactorily for two (2) years for Category 3 and 4 wetlands and six (6) years for Category 1 and 2 wetlands after they have been completed. The responsible official shall release the maintenance bond upon determining that performance standards established for evaluating the effectiveness and success of the structures, improvements, and/or mitigation have been satisfactorily met for the required period;
 - e. Upon forfeiture of a performance or maintenance bond, the proceeds thereof shall be utilized either to corrected deficiencies which resulted in forfeiture or, if such correction is deemed by the county to be impractical or ineffective, to enhance other wetlands in the same watershed.
4. Administrative Appeal. A consolidated wetland permit decision may be administratively appealed in conjunction with, and within the same limitation period, applicable to the other county permit or approval; provided, that wetland permits preliminarily issued or denied by the responsible official may be appealed in the same manner, and within the same limitation period, applicable to a Type II process under Section 40.510.020.
5. Duration. Wetland permit preliminary approval shall be valid for a period of three (3) years from the date of issuance or termination of administrative appeals or court challenges, whichever occurs later, unless:
 - a. A longer period is specified in the permit; or
 - b. The applicant demonstrates good cause to the responsible official's satisfaction for an extension not to exceed an additional one (1) year.

I. Wetland permit--Final approval.

1. Issuance. The responsible official shall issue final approval of the wetland permit authorizing commencement of the activity permitted thereby upon:
 - a. Submittal and approval of a final enhancement/mitigation plan pursuant to Section 40.450.040(E);
 - b. Installation and approval of field markings as required by subsection (a) of Section 40.450.030(E)(4);
 - c. The recording of a conservation covenant as required by subsection (c) of Section 40.450.030(E)(4);
 - d. The posting of a performance bond as required by subsection (3) of Section 40.450.040(H);
 - e. The responsible official may waive the requirement for one or both financial guarantees provided that one or more of the following conditions are met:
 - (1) The total estimated performance guarantee is less than the equivalent value of the staff time required to manage the financial guarantees for the entire monitoring period,
 - (2) The wetland permit was triggered by a grading permit on real property in a rural area or by proposed work in a Category 1, 2, or 3 wetland without a triggering application and the applicant can demonstrate to the responsible official's satisfaction that posting the required financial guarantees will constitute a significant hardship.
2. Duration. Wetland permit final approval shall be valid for a period of two (2) years from the date of issuance unless:
 - a. A longer period is specified in the permit; or
 - b. The responsible official grants an extension upon the written request of the original permit holder or successor in title demonstrating to the satisfaction of the responsible official:
 - (1) That the original intent of the permit would not be altered or enlarged by the extension, and

- (2) That relevant circumstances and standards have not changed substantially since the permit application, and
 - (3) That the applicant has complied with the terms of the permit.
 3. Revocation. In addition to other remedies provided for elsewhere, the responsible official may suspend or revoke a permit if the applicant or permittee has not complied with any of the conditions or limitations set forth in the permit, has exceeded the scope of work set forth in the permit, or has failed to undertake the project in the manner set forth in the permit.

J. Variance.

1. If an applicant for a wetland permit demonstrates to the satisfaction of the review authority that application of the standard of this chapter would preclude all reasonable economic use of the parcel, a variance to such standards shall be granted if the applicant also demonstrates all of the following to the satisfaction of the review authority:
 - a. That no reasonable use with less impact on the wetland and its buffer is possible;
 - b. That there is no feasible on-site alternative to the proposed activities, including reduction in density, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to wetlands and wetland buffers;
 - c. That the proposed activities will result in minimum feasible alteration or impairment to the wetland's functional characteristics and its existing contours, vegetation, fish and wildlife resources, and hydrological conditions;
 - d. That disturbance of wetlands has been minimized by locating any necessary alteration in wetland buffers to the extent possible;
 - e. That the proposed activities will not jeopardize the continued existence of endangered, threatened, rare, sensitive, or monitor species as listed by the federal government or the state of Washington;
 - f. That the proposed activities will not cause significant degradation of groundwater or surface water quality;
 - g. That the proposed activities comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal;
 - h. That there will be no material damage to nearby public or private property and no significant threat to the health or safety of people on or off the property; and
 - i. That the inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and creating the undevelopable condition after the effective date of the ordinance codified in this chapter.
2. Notice of a wetland variance request shall be given in conjunction with the notice of any consolidated permit application; provided, that if there is no consolidated permit application or if such application does not require a public hearing, the variance request shall be scheduled for hearing before the hearings examiner upon the same notice as is provided for preliminary plat applications pursuant to Section 40.540.040.

K. Emergency wetland permit.

1. Authorization. Notwithstanding the provisions of this chapter or any other laws to the contrary, the responsible official may issue prospectively or, in the case of imminent threats, retroactively a temporary emergency wetlands permit if:
 - a. The responsible official determines that an unacceptable threat to life or loss of property will occur if an emergency permit is not granted; and
 - b. The anticipated threat or loss may occur before a permit can be issued or modified under the procedures otherwise required by this act and other applicable laws.
2. Conditions. Any emergency permit granted shall incorporate, to the greatest extent practicable and feasible but not inconsistent with the emergency situation, the standards and criteria required for non-emergency activities under this act and shall:
 - a. Be limited in duration to the time required to complete the authorized emergency activity, not to exceed ninety (90) days; and

- b. Require, within this ninety- (90) day period, the restoration of any wetland altered as a result of the emergency activity, except that if more than the ninety (90) days from the issuance of the emergency permit is required to complete restoration, the emergency permit may be extended to complete this restoration.
- 3. Notice. Notice of issuance of an emergency permit shall be published in a newspaper having general circulation in Clark County not later than ten (10) days after issuance of such permit.
- 4. Termination. The emergency permit may be terminated at any time without process upon a determination by the responsible official that the action was not or is no longer necessary to protect human health or the environment.

40.460 SHORELINE OVERLAY DISTRICT (SL)

40.460.010 PURPOSE

The purpose of this chapter is to implement the policies and procedures set forth by the Shoreline Management Act of 1971. Provisions of the following statutes of the state of Washington applicable to Clark County are hereby adopted by reference:

- A. RCW 90.58 Shoreline Management Act.
- B. WAC 173-16 Guidelines for Shoreline Master Programs.
- C. WAC 173-18 Streams and Rivers Constituting Shorelines of the State.
- D. WAC 173-20 Lakes Constituting Shorelines of the State.
- E. WAC 173-22 Designations of Wetlands Associated with Shorelines of the State.
- F. WAC 173-26 State Shoreline Master Program.
- G. WAC 173-27 Permits for Developments on Shorelines of the State.

40.460.020 DISTRICT BOUNDARIES

The shoreline overlay district shall include those county land and water areas designated as shorelines of the state by the Washington Department of Ecology in accordance with the authority, definitions, criteria, listings and map delineations provided in RCW 90.58 and WACs 173-18, 173-20 and 173-22. Areas so designated shall be known as shorelines of the county, comprising districts to be combined with zoning that has been applied to such areas.

40.460.030 USES, STANDARDS AND PERMIT REQUIREMENTS

- A. All uses permitted outright or otherwise in the zone district with which this district is overlaid are allowed, subject to shoreline requirements. Standards governing such uses are stipulated in the form of policies and regulations of WAC 173-26, the Clark County Shoreline Master Program.
- B. Unless specifically exempted by RCW 90.58 or WAC 173-27, no project or activity shall be undertaken on shorelines of the county without first obtaining a substantial development permit. Under the Master Program, shorelines of the county are further designated into urban, rural, conservancy or natural shoreline environments, in which substantial developments are identified as permitted or conditional uses. Substantial developments not identified as permitted require a shoreline conditional use permit. Projects or activities deviating from the specific regulations of the Master Program require a shoreline variance permit. Exempt projects must comply with the provisions of the Master Program.

40.460.040 SHORELINE PERMIT PROCEDURES

Administration of the shoreline permit system shall be carried out by the responsible official in accordance with the procedures, time lines and other requirements of WAC 173-27. In addition, the following local procedures shall apply exclusively to all requests for shoreline substantial development, conditional use, and variance permits:

- A. There is created a shoreline management review committee (SMRC), consisting of the Public Works director (chairman), Community Development director, and the Parks and Recreation director, or their designated representatives. The committee shall convene as often as necessary on the call of the chairman to review shoreline requests and permit applications for which the notice of application procedures of WAC 173-27 has been completed. After considering the application and other relevant material, SMRC may, by majority vote,

take one of the following actions: (1) approve issuance of the permit; (2) approve the permit subject to certain specified conditions; or (3) formulate recommendations on the application to be forwarded to the hearings examiner and/or the board for action.

- B. To the fullest extent possible, the shoreline permit process shall be integrated with other planning and licensing procedures of the UDC. Shoreline applications may accompany another related application through the review process, and interested persons may present views thereon, but no formal public hearing is required.
- C. Issuance of shoreline permits approved by SMRC, the hearings examiner, or the board shall be the responsibility of the responsible official.
- D. Appeals to any final shoreline permit decision shall be governed by RCW 90.58.180.

40.460.050 SHORELINE REVIEW PROCESSES

- A. **Shoreline Exemptions.**
Those developments that meet the Shoreline Exemption standards set forth in WAC 173-27-040 may be exempt from the shoreline substantial development permit process provided they meet the standards of the Shoreline Management Act and the Clark County Shoreline Master Program.

In accordance with WAC 173-27-050, projects requiring review and approval by a Federal Agency will require a written approval from the Clark County SMRC. If a written approval is required, the Shoreline Exemption determination shall be processed as a Type I permit except that the decision must be administratively approved by at least two members of the SMRC, within the timeline limits set forth for Type I applications. In the event no written approval is required, the Shoreline Planner shall verbally affirm the project as exempt, within the timeline limits set forth for Type I applications.

- B. **Shoreline Substantial Development Permits.**
Shoreline Substantial Development Permits shall be processed as Type III applications, except that the SMRC conference shall replace the public hearing. The SMRC shall have its written decision prepared, signed and mailed to the Washington Department of Ecology within the timelines set forth for Type III applications.
- C. **Shoreline Conditional Use Permits and Shoreline Variances.**
Shoreline Conditional Use Permits and Shoreline Variances shall be processed locally as Type III applications, except that the SMRC conference shall replace the public hearing, and the local decision is only a recommendation to the Washington Department of Ecology. The SMRC shall have their written recommendation prepared, signed and mailed to the Washington Department of Ecology within the timelines set forth for Type III applications.

40.460.060 SHORELINE PERMIT TIMELINES

- A. The following time requirements from WAC 173-27-090 shall apply to all substantial development permits and to any development authorized pursuant to a shoreline variance or shoreline conditional use permit.
 - 1. Construction shall be commenced, or where no construction is involved, the use or activity shall be commenced within two years of the effective date of a shoreline permit, provided, that local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.
 - 2. Authorization to conduct development activities shall terminate five years after the effective date of a shoreline permit, provided, that local government may authorize a single extension for a period not to exceed one year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of the proposed extension is given to parties of record and the department.
- B. The effective date of a shoreline permit shall be the date of the last action required on the shoreline permit and all other government permits and approvals that authorize the development to proceed, including all

administrative and legal actions on any such permit or approval. It is the responsibility of the applicant to inform the local government of the pendency of other permit applications filed with agencies other than the local government and of any related administrative and legal actions on any permit and approvals. If no notice of the pendency of other permits or approvals is given to the local government prior to the date established by the shoreline permit or the provisions of this section, the expiration of a permit shall be based on the shoreline permit.

- C. When permit approval is based on conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity, provided, that an alternative compliance limit may be specified in the permit. Revision to permits under WAC 173-27-100 or Section 40.420.080, may be authorized after original permit authorization has expired under subsection (A) of this section, provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.
- D. Clark County shall notify the Washington Department of Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by this section shall require a new permit application.

40.460.070 SHORELINE NON-CONFORMING USES AND DEVELOPMENT STANDARDS

Shoreline standards for non-conforming uses and developments are governed as set forth in WAC 173-27-080.

40.460.080 CHANGES, AMENDMENTS, OR REVISIONS.

Amendments to this chapter shall be processed as provided by Section 40.560.020. Revisions to shoreline permits shall be processed in accordance with WAC 173-27 and Section 40.460.040, above. Amendments or revisions to the master program shall be governed by WAC 173-26. Changes in wetland boundaries shall be made only in accordance with WAC 173-22-040 through WAC 173-22-055.